

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
IN SEATTLE

UNITED STATES OF AMERICA,)	
)	NO. CR09-160JLR
Plaintiff,)	
)	
vs.)	
)	
WILLIAM S. POFF,)	
)	
Defendant.)	
)	

TRIAL

BEFORE THE HONORABLE JAMES L. ROBERT

March 8, 2010

APPEARANCES:

Sarah Vogel
Michael Scoville
Assistant United States Attorneys
Representing the Plaintiff

William S. Poff
Pro Se
Representing the Defendant

Howard Ratner
Attorney at Law
Standby Counsel

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By Ms. Vogel:	

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1 THE COURT: The clerk will call this matter.

2 THE CLERK: Case 09-160, United States versus William
3 Poff. Counsel, please make your appearance.

4 MS. VOGEL: Good afternoon, your Honor. Sarah Vogel and
5 Michael Scoville on behalf of the United States. Also present at
6 counsel table is Special Agent Adam Burt, the case agent in this
7 case.

8 THE COURT: Counsel, Mr. Burt.

9 THE DEFENDANT: Good afternoon, your Honor. William S.
10 Poff, here by special appearance, representing myself. And I
11 would like to object for the record, your Honor.

12 THE COURT: Object to what?

13 THE DEFENDANT: I happened to swing by U.S. Bankruptcy
14 Court on my way here. According to law, it says the United
15 States is actually, in fact, a bankrupt corporation. And I
16 checked with the trustees at the bankruptcy court. Neither of
17 the U.S. Attorneys are actually trustees of bankruptcy court.
18 Only a trustee can speak on behalf of a bankrupt corporation,
19 neither of which they are, sir.

20 THE COURT: All right. Why don't we start a list, and I
21 will take that up before the day is over.

22 I must say, I always wonder when I come out here after the
23 morning break and people have been redecorating the courtroom.
24 That's probably as good a spot for that chart as any.

25 Mr. Scoville, are you doing the opening statement?

1 MR. SCOVILLE: Yes, your Honor.

2 THE COURT: Do you intend to make reference to that?

3 MR. SCOVILLE: I do. I have also handed up a smaller
4 courtesy copy for you and your clerk to refer to.

5 THE COURT: Mr. Poff, have you had a chance to look at
6 it?

7 THE DEFENDANT: Yes, I have.

8 THE COURT: Do you have any objection to their using it?

9 THE DEFENDANT: I have no objection, your Honor.

10 MR. RATNER: For the record, Howard Ratner. I am
11 standby counsel for Mr. Poff.

12 THE COURT: Thank you, Mr. Ratner. Counsel, I have a
13 series of housekeeping matters to take up with you first. I
14 guess the easiest one to start on is the question of waiver of
15 the jury trial.

16 Mr. Poff, where we left off on this was the telephone
17 conference that we had last Friday. In that, you indicated that
18 you wished to waive the jury. The law has a great name for that.
19 They call it a "colloquy." I asked you probing questions about
20 that intent, and you answered them to my satisfaction. And I
21 indicated at that time that the one detail that remained open was
22 that Criminal Rule 23 is very specific that the defendant needs
23 to sign a written waiver.

24 In thinking about this over the weekend it occurred to me
25 that one of the issues in this is that the person who is waiving

1 the jury needs to be the same person who has been sued. And I
2 note that Mr. Poff has been signing pleadings in this matter as
3 William hyphen Stuart comma space comma Poff. I think that is a
4 colon. And I don't want there to be an argument at some point in
5 the future where the contention is made that the person here in
6 court today is not the person who was sued by the government. I
7 think that is an obligation of the United States that they are
8 satisfied that this arrangement is correct, and that the person
9 who is here is indeed the person who was indicted in this matter.
10 I am not privy to the arraignment in this matter, I am not privy
11 to any of the bookings, but I am aware of the fact that the
12 government is aware of that. I am not sure who is fielding this
13 on behalf of the government. It looks like all heads are turning
14 to Ms. Vogel.

15 Ms. Vogel, how is it that you are going to assure me that
16 Mr. Poff is Mr. Poff?

17 MS. VOGEL: Aside from the evidence that we will
18 introduce during the trial, your Honor, upon defendant's arrest
19 in Michigan he waived his Rule 5 identity hearing and admitted
20 under oath that he was the person named in the indictment, and
21 was then moved here to -- the case was then moved here to the
22 Western District of Washington.

23 THE COURT: And the person who did that is the same
24 person who is present today?

25 MS. VOGEL: Yes, your Honor.

1 THE DEFENDANT: I object, your Honor.

2 THE COURT: What's that?

3 THE DEFENDANT: I object, your Honor.

4 THE COURT: Mr. Poff, you need to slide that microphone
5 over. Number one, it will pick up everything you don't want it
6 to pick up. For example, if you want to talk to Mr. Ratner, be
7 sure to press that button at the base of it, because it will
8 broadcast everything to the audience when it is on. The second
9 thing is, it does a really bad job unless it is directly in front
10 of you and you speak distinctly.

11 What is the basis of your objection?

12 THE DEFENDANT: Yes, I do go by William S. Poff. My
13 name is spelled capital W, lower case i-l-l-i-a-m. My middle
14 name is Stuart. It is spelled capital S, lower case t-u-a-r-t.
15 My last name is Poff. That is spelled capital P, lower case
16 o-f-f. My name -- the appellation where it shows in here and on
17 the court documents William S. Poff is actually a juristic
18 person, an appellation that I was frauded actually into believing
19 that's what I was, such as on my driver's license, since
20 everything is capitalized. I have since learned that this
21 appellation of my name is actually a corporate fiction or it is
22 called a vessel under Title 18. Somehow I am compelled to
23 perform to this appellation of my name, which is technically not
24 myself.

25 THE COURT: All right. Let me make sure I understand.

1 Were you ever arrested in Michigan?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And did you have a hearing before the
4 magistrate?

5 THE DEFENDANT: Yes, sir. The very day that I was
6 arrested I was taken to the courtroom in handcuffs. They asked
7 me if my name was William S. Poff. At that time, not knowing --
8 I was given basically this piece of paper with my arrest warrant,
9 my indictment, whatever it was at the time, I do not recall. It
10 had what appeared to be my name on there. And, yes, I did at
11 that time answer that, yes, I was William S. Poff. What I have
12 since learned is that this appellation of my name is some sort of
13 subcorporation, some sort of legal fiction that makes me some
14 sort of person under the law, which technically I am not, your
15 Honor.

16 THE COURT: All right. What entity is going to be
17 waiving the jury in this? I will get out Rule 23 and read it to
18 you if you want. It says the defendant needs to waive the jury.
19 Are you prepared to waive the jury as William S. Poff in whatever
20 spelling you wish to put on the record?

21 THE DEFENDANT: If I am somehow compelled to perform
22 this appellation in my name, then at that point I would have to
23 if we proceed further. But I am objecting for the record. And I
24 take exception to anyone referring to me as William S. Poff in
25 all capital letters, per statute, sir.

1 THE COURT: Before I rule on that, Ms. Vogel, would you
2 like to say anything further?

3 MS. VOGEL: No, your Honor.

4 THE COURT: I am going to overrule that objection. I
5 believe that William S. Poff in capital letters is simply a
6 stylistic matter. It would be as stated in the indictment that
7 this is the person who is charged.

8 THE DEFENDANT: I respectfully object, your Honor.

9 THE COURT: You can save those up, sir. Let me finish
10 mine.

11 THE DEFENDANT: Sorry, sir.

12 THE COURT: As I understand Mr. Poff's responses here in
13 court today, he is William S. Poff, but a different style, and I
14 guess punctuation, if I understand correctly.

15 THE DEFENDANT: The punctuation is how it would be
16 referred to in the family bible. That is how it is technically
17 done in a family bible, sir. That's what the punctuation is for,
18 sir.

19 THE COURT: Mr. Poff, have you had an opportunity to see
20 the waiver of right to jury trial that was prepared in this
21 matter?

22 THE DEFENDANT: Yes, I have, sir.

23 THE COURT: Are you prepared at this time to sign that?
24 I note that it does not list your name, it simply refers to you
25 as "I," and under the signature line it says "defendant." Are

1 you prepared to execute that at this time?

2 THE DEFENDANT: Yes, sir. May I state for the record,
3 on the matter that you overruled, you were talking about the
4 style of my name. I actually did research of this in the
5 Government Printing Office Style Guide of 2008. It says vessels
6 will be printed in lower case Roman. I would like to show for
7 the record my name in all caps is technically what is referred to
8 as a vessel, a fictional entity that I am somehow compelled to
9 perform under, which I object to.

10 THE COURT: I think that is clearly on the record at
11 this time. Then I would ask whoever has the original of the
12 waiver of right to jury trial to make that available to Mr. Poff.

13 MS. VOGEL: Your Honor, I have provided the original to
14 Mr. Poff. Before we go forward with that, the United States has
15 some concerns that arose during the hearing on Friday -- the
16 telephonic hearing on Friday, specifically with regard to the
17 question that the Court directed to standby counsel about
18 competence of the defendant to enter into the waiver.

19 Over the weekend, doing some more research on the matter, the
20 United States learned that there is a case in the Ninth Circuit
21 that specifically states if there is any question as to the
22 defendant's mental ability or competence as to the jury waiver,
23 then the Court must explore that before allowing the waiver to
24 continue.

25 THE COURT: All right. Mr. Ratner, what I heard you

1 say, and perhaps I didn't hear this clearly, was that you were
2 expressing an opinion that would require -- one way or the other,
3 would require an invasion of the attorney/client privilege, and
4 therefore you were declining to answer for the reason that your
5 answer would be based on information that you had obtained during
6 the time that you were serving as standby counsel, and you felt
7 that was not appropriate under the attorney/client privilege. He
8 can have his own microphone. Just slide it over there.

9 MR. RATNER: That's correct, your Honor. Since that
10 time I have re-looked at the issue. I can tell the Court that I
11 have nothing to indicate that Mr. Poff is not legally competent
12 to stand trial in accordance with the applicable case law.

13 THE COURT: All right. Ms. Vogel, any further concern
14 then?

15 MS. VOGEL: No, your Honor.

16 THE COURT: Mr. Poff, you have the original of this. If
17 you would sign it, please? One of the rules is you only get to
18 come up into my space when you are invited, but you can then
19 deliver it to the clerk after you have done that.

20 What's customary, Mr. Poff, is you show it to opposing
21 counsel, and then you are welcome to bring it up.

22 As I get to say, you may approach.

23 All right. I am going to return that to the clerk for filing
24 at this time.

25 Counsel, I believe pending before me right now is Mr. Poff's

1 motion in regards to the Speedy Trial Act. We have taken care of
2 the jury trial issue. I think it has now been filed and I have
3 signed the stipulation in regard to business records. I believe
4 that those are the outstanding matters at this time.

5 Anyone else got anything else they think is on an open,
6 pending matter at this time?

7 THE DEFENDANT: Yes, sir. The objection I made earlier,
8 I would like to show this document that I received from a very
9 nice lady down at the bankruptcy court, Ms. Ethel. She actually
10 gave me a printout of the trustees and bankruptcy. I would like
11 to show that to opposing counsel and submit it into evidence.

12 THE COURT: Why don't you hold onto it. We are going to
13 treat that as a motion. In effect, you are moving to dismiss.
14 You can keep that and hand it up at that time. And I will put
15 that one on my list of matters to take up also.

16 Anything else from the government?

17 MS. VOGEL: No, your Honor.

18 THE COURT: Mr. Poff, is referring to you as Mr. Poff
19 fine? I don't want to be disrespectful.

20 THE DEFENDANT: That's fine, sir.

21 THE COURT: That's how we will call you in this. I
22 believe that the government is going to do a short opening
23 statement.

24 MR. SCOVILLE: Yes, your Honor, that's correct.

25 THE COURT: You may proceed, counsel.

1 MR. SCOVILLE: May it please the court, Mr. Poff,
2 Mr. Ratner. Your Honor, this case is about lies to get mortgage
3 loans, and more lies to get cash back from closing real estate
4 deals.

5 Usually when people are buying a house they have to put their
6 own money into the transaction. They have to bring some cash to
7 the closing. And they walk away with less cash in their pockets.
8 With the real estate deals the court is going to hear about in
9 this case, the defendant and his co-conspirators used lies to get
10 mortgage loans, and then just siphon as much cash as possible out
11 of closing real estate deals as they could, even while they were
12 buying houses, walking away with much more cash in their pockets
13 than when they had started, as well as with titles to the houses
14 they were buying.

15 A staggering amount of deception was necessary to make this
16 work. The defendant and his co-conspirators routinely used straw
17 buyers, routinely pretending other people were buying the house,
18 when in fact the defendant and usually his wife were buying them.

19 He submitted applications to mortgage lenders that were
20 riddled with lies; lies about whether the house was going to be
21 used as a primary residence, lies about the income and employment
22 of the borrower, lies about where the down payment funds were
23 coming from.

24 On the side, the defendant and his wife would negotiate with
25 the sellers in these transactions for separate seller-carried

1 financing, but they wouldn't tell the mortgage lenders about
2 these side arrangements for seller-carried financing. As a
3 result they were routinely able to get more than 100 percent
4 financing for the real estate deals, and then siphoned the excess
5 funds out of the closing back to themselves.

6 They worked with a crooked escrow agent to create fake
7 settlement statements, fake HUD-1s, to disguise where the money
8 was coming from and where it was going. In all these ways they
9 were able to get huge amounts of cash back at closing, tens and
10 in some cases even hundreds of thousands of dollars from a single
11 real estate deal.

12 They used this money to live on, to take vacations to Hawaii,
13 to buy expensive guns for their collection. They also used it to
14 make payments on the properties they were amassing in their
15 portfolio.

16 It appears that the point of the whole scheme was to hold on
17 to those properties for a couple of years, wait until the market
18 appreciated, and then flip them at a profit. But the entire
19 scheme was a house of cards built on lies. And when the market
20 began to decline, and when credit began to tighten, the scheme
21 fell apart. Foreclosures resulted on almost all of the
22 properties, leaving the mortgage lenders down substantial amounts
23 of money, and also causing losses to the private sellers who
24 agreed to extend financing.

25 Your Honor, there are four things that I would like to do in

1 this opening statement. The first is, I would like to preview
2 the charges, the 30 counts that the government is proceeding on
3 in this trial, and explain how they relate to the various real
4 estate deals they would be focusing on. Then I would like to
5 preview the conspiracy and the members of the conspiracy. Third,
6 I would like to describe to the court the deceptive devices that
7 were usually used in connection with the schemes of fraud. And,
8 finally, I would like to preview with the court the categories of
9 evidence the government will be introducing to establish that the
10 defendant was a knowing participant in this scheme and
11 conspiracy.

12 So starting with the first order of business, the charges
13 that arise from the real estate deals and the loans obtained in
14 connection with them in this scheme. The court is going to hear
15 that the defendant and his co-conspirators bought more than 20
16 properties over the course of the scheme, but the government will
17 be focusing in this trial on eight properties, eight properties
18 that we believe are representative of a scheme to defraud. Those
19 eight properties and the real estate deals that are connected
20 with them are described in the chart that we have positioned in
21 the courtroom before the court and before the witness box. We
22 have also handed up copies for the court, and copies to Mr. Poff
23 and Mr. Ratner. We have marked this chart as Exhibit 1. We
24 intend to use it during the course of the evidence.

25 This chart shows the court the various real estate deals that

1 we are going to be focusing on. I would like to highlight a few
2 things right now. First, all of the properties are residential
3 properties. In the first line of the chart there are a trio of
4 duplexes in Puyallup, Washington. All of the rest of the
5 properties are single-family homes.

6 The recorded sales prices for these properties range in value
7 from \$150,000 at the low end, looking at the South Puget Sound
8 Avenue property in line 7, to \$2 million at the high end, looking
9 at the Issaquah property in line 6. All of the properties are
10 located in western Washington, mostly in King County and in
11 Pierce County.

12 In connection with almost all of the these transactions
13 conventional lender financing was obtained, sometimes both first
14 and second mortgages. In some of the transactions the sellers
15 also agreed to extend financing on the side.

16 Finally, turning your attention to the last column of the
17 chart, that describes the counts that are associated with the
18 various real estate deals we will be focusing on.

19 In almost every single line of the chart we have at least one
20 wire fraud count, that alleges that the defendant used fraud and
21 deception in order to induce the mortgage lender to wire loan
22 proceeds in interstate commerce to the escrow company located in
23 the State of Washington.

24 Almost all of the mortgage lenders were not federally
25 insured, but in the case of the one mortgage lender in this chart

1 that was, National City Bank, the defendant is also charged with
2 bank fraud charges stemming from the same conduct of inducing the
3 lender fraudulently to grant the loan proceeds.

4 The money laundering charges are then built on top of the
5 fraud charges. Those money laundering charges have to do with
6 following the money that the defendant and his co-conspirators
7 were receiving from the fraud that they were committing.

8 The defendant is charged with three different types of money
9 laundering in the counts that we are proceeding on. Some of the
10 counts charge the defendant with promotional laundering, using
11 the proceeds of the bank and wire fraud and recycling it into
12 further fraudulent real estate deals.

13 Several of the counts charge the defendant with concealment
14 money laundering, conducting transactions designed to conceal
15 where the money was coming from and who controlled it.

16 Several of the counts of money laundering charge the
17 defendant with a third type of money laundering, money laundering
18 in amounts greater than \$10,000, which is, if you will, a type of
19 strict liability money laundering. It doesn't require proof of
20 intent to promote further criminal activity or intent to conceal
21 the source of the funds. It simply requires proof the defendant
22 knew the funds came from criminal activity, and that the
23 defendant then engaged in a qualifying transaction involving
24 amounts greater than \$10,000. Those are the three types of money
25 laundering with which the defendant is charged.

1 Finally, your Honor, the defendant is charged in two counts
2 of conspiracy; Count 1, conspiracy to commit bank and wire fraud,
3 and Count 31, conspiracy to engage in money laundering. These
4 conspiracy counts wrap around all of the real estate deals that
5 we will be focusing on in this trial. They also include real
6 estate deals that we are not going to get into, the other 13, 14,
7 15 real estate deals that we will be not be focusing primarily
8 on. That is an overview of the charges and how they fit in with
9 the real estate deals that are described in this properties and
10 counts chart.

11 Now I would like to talk about the members of the conspiracy.
12 There is another chart we have marked as Exhibit 2 that we are
13 now showing on the screen. I have provided a courtesy copy to
14 the court and to counsel. The first person whose picture appears
15 in the upper left of this chart is Alexis Ikilikyan.
16 Ms. Ikilikyan was the defendant's wife during the course of this
17 conspiracy. She and the defendant were married from
18 approximately September of 2002 until the summer of 2008.
19 Ms. Ikilikyan has pleaded guilty to conspiring to commit bank and
20 wire fraud, and she has agreed to provide testimony.
21 Ms. Ikilikyan is expected to testify that she and Mr. Poff were
22 in this together. She is expected to testify that typically she
23 would assume the role of the real estate agent on behalf of
24 herself or the straw buyers in connection with these
25 transactions. She would go out and find the properties and then

1 deal initially with the sellers to negotiate a purchase price and
2 also negotiate seller financing, all the while consulting with
3 Mr. Poff about the details of these transactions. She is also
4 expected to testify that she would then turn the deals over to
5 Mr. Poff who would function as the loan officer in connection
6 with the transactions.

7 Most of the bank accounts into which the money went were held
8 in Ms. Ikilikyan's name. She also purchased some of the
9 properties in her own name. But she is expected to testify that
10 the defendant and her shared equally in the proceeds of the
11 fraud. They were really in this together.

12 Mr. Poff, the testimony will establish that he usually
13 functioned as the loan officer and submitted the loan
14 applications and supporting documents to the mortgage lenders in
15 connection with these deals.

16 THE COURT: Are these driver license photographs?

17 MR. SCOVILLE: They are.

18 THE COURT: I think we could get a more flattering
19 photograph of Mr. Poff.

20 THE DEFENDANT: Sir, I was just kidding with Mr. Ratner
21 about objecting to that in jest.

22 THE COURT: Please continue, counsel.

23 MR. SCOVILLE: So Mr. Poff, in addition to functioning
24 as a loan officer, was also a licensed notary. In fact, he has
25 admitted that in documents he has filed with the court. And he

1 would often notarize documents that were executed in connection
2 with these real estate deals.

3 Ms. Thompson. Ms. Thompson was the escrow officer at Great
4 American Escrow who closed all of the real estate transactions
5 that are described in the properties and counts charged. She has
6 also pled guilty to bank and wire fraud. She has agreed to
7 testify. The government expects the court will hear from her
8 about Mr. Poff's involvement in the conspiracy as well, and in
9 particular about his involvement in instructing her on what to
10 say in the HUDs that were sent to the mortgage lenders in order
11 to disguise where the money was coming from and where it was
12 going.

13 Mr. Reyes, he has also pleaded guilty to conspiring to commit
14 bank and wire fraud. He was a loan officer with America One
15 Finance. He was also a real estate agent. The government
16 expects that the testimony, which may not necessarily come from
17 Mr. Reyes himself, will establish that Mr. Reyes was friends with
18 the defendant, with Ms. Ikilikyan, and in the last few
19 transactions, beginning in approximately the spring of 2007,
20 Mr. Reyes would function as the primary loan officer who would be
21 receiving documents from Ms. Ikilikyan and from Mr. Poff in
22 connection with those transactions in order to make them go
23 through.

24 The bottom row of the chart shows two people, Ms. Harutyunyan
25 and Mr. Timothy Thomson. Mr. Harutyunyan was Mr. Poff's

1 mother-in-law at the time. She is the mother of Ms. Ikilikyan.
2 She functioned as a straw buyer frequently in connection with the
3 real estate deals in this scheme.

4 Mr. Timothy Thomson was also a straw buyer in connection with
5 transaction number two in the chart. He is expected to testify
6 that he received a \$1,000 kickback up front for agreeing to let
7 his name and credit be used in connection with the real estate
8 deal. He is also expected to testify about the fallout from the
9 real estate deal and what has gone wrong with it.

10 That is a preview, your Honor, of the members of the
11 conspiracy and some of the witnesses the court will be hearing
12 from in the course of the trial. I should also note that
13 Ms. Harutyunyan is expected to testify.

14 Now, your Honor, turning to the third chart, the deceptive
15 devices chart. This chart, your Honor, describes what we believe
16 the evidence will establish are the five primary deceptive
17 devices that were used in connection with these real estate deals
18 in order to induce the mortgage lenders to loan the money and
19 induce the sellers to go along with it.

20 As you can see from the chart, your Honor, the different
21 deceptive devices were used in different combinations in the
22 transactions. But each of the transactions, the evidence will
23 establish, involved at least one or more of those deceptive
24 devices.

25 So let's talk about them one by one. First, the straw

1 buyers. I think the court is already aware of what that is. I
2 have already talked about that. Again, Ms. Harutyunyan is used
3 as a straw buyer in connection with the three transactions,
4 Mr. Thomson in connection with one.

5 Second, lies in the loan applications and the supporting
6 documents. It is pretty straightforward. The deceptive devices
7 chart indicates what some of the primary lies were. The evidence
8 will establish lies about whether the buyer was intending to
9 occupy the property as a primary residence. The court will hear
10 from mortgage lenders that is important to them because they view
11 loans where the property is actually going to be occupied by the
12 borrower as less risky, because a person is less likely to
13 default on a loan for the house that supplies the roof over his
14 head than he is for an investment property loan. Also lies about
15 income and employment. And mortgage lenders and their
16 representatives will testify to the court about how they use this
17 information and why it is material to them.

18 The third type of deceptive device, inflated sales prices.
19 This was used in connection with two of the transactions. If the
20 court would look at the transaction described in line number 6,
21 the Issaquah property? The evidence will establish that although
22 the sales price was recorded and communicated to the lenders as
23 \$2 million, there was a side agreement negotiated between the
24 buyers and the sellers in that transaction that the real sales
25 price was \$1.3 million. And all of the excess funding that was

1 being obtained in connection with that transaction was going to
2 go back to the buyers, back in their pockets, to allow them to
3 get cash back from the closing.

4 The fourth deceptive device, undisclosed seller financing.
5 That was used in connection with four of the transactions that we
6 will be talking about in this case. And typically in those
7 transactions, if you add up the amount of conventional mortgage
8 lender financing and the amount of seller financing, it totals
9 more than the purchase price. It enabled the defendant and his
10 co-conspirators to siphon back the excess proceeds from the deal.

11 And the lenders will also say that they didn't know about
12 these undisclosed seller financing agreements, they weren't aware
13 there was some sort of subordinate financing or seller carryback
14 negotiated in connection with the transaction. They will also
15 testify, if they had known about that, they wouldn't have been
16 willing to extend the mortgage funding, at least certainly not in
17 the amounts in which they extended it, because it wouldn't make
18 sense for them to be doing more than 100 percent financing on
19 these deals.

20 You will also see, your Honor, evidence that seller financing
21 was negotiated as part of these purchase and sales agreements,
22 but at the last minute in closing typically a document was
23 signed, supplied by the defendant, that purported to say that the
24 seller financing was a separate transaction, completely separate
25 from the purchase and sale. And the evidence will establish that

1 this was a means the defendant and his co-conspirators knowingly
2 used in order to try to cover up what was going on, to try to
3 make it appear legitimate, that the lenders were not being
4 supplied with the information about the seller financing.

5 Finally, the false HUDls. In almost every single real estate
6 deal settlement statements were submitted by the escrow agent,
7 Vicki Thompson, to the mortgage lenders and to the sellers that
8 contained falsehoods. They would be lacking any information
9 about the seller carrybacks. They would talk about payments to
10 repair companies, sometimes \$100,000 payments to repair companies
11 that simply didn't occur, or transfers to other escrow companies
12 that simply didn't occur. And the evidence will establish that
13 these HUDs were doctored, and they were submitted to the lenders
14 in order to disguise where the proceeds were going.

15 The evidence will also establish that Mr. Poff submitted fake
16 checks, fake receipts, fake invoices to the escrow agent in order
17 to help her have some cover in her file in case the investigators
18 ever came knocking.

19 Those are the five principal types of deceptive devices the
20 court will see again and again throughout this case.

21 Your Honor, because the defendant never put any of the
22 properties in his own name, and never officially had a mortgage
23 brokers license, the government expects that the primary issue
24 will be not whether there was fraud in these deals but whether
25 the defendant was a knowing participant in the fraud. There are

1 several categories of evidence that the government expects will
2 establish that the defendant was a knowing participant.

3 First, the testimony of the accomplices, Ms. Ikilikyan,
4 Ms. Thompson, Ms. Harutyunyan, they will place the defendant
5 squarely in the middle of these deals, and they will demonstrate
6 the defendant had knowledge of the fraud that was occurring.

7 Beyond the accomplice testimony, second, your Honor, you will
8 hear testimony from others involved in these transactions. We
9 will call sellers, real estate agents, representatives from the
10 mortgage lenders and from other mortgage brokerages who will all
11 testify they met with the defendant about these transactions,
12 talked to him on the phone, received e-mails from him, received
13 documentation from him, that were submitted in connection with
14 these real estate deals.

15 Third, you will see a paper trail that will confirm the
16 defendant's involvement in these transactions, including e-mails
17 from the defendant, including closing documents notarized by the
18 defendant but containing obviously false statements.

19 And, finally, your Honor, you will see financial evidence
20 that will demonstrate that the defendant benefited directly from
21 the fraud that was occurring. The money that he and his wife got
22 as cash back from these closings, which includes not only the
23 eight transactions we will be focusing principally on, but also
24 the other involved in the conspiracy, amounted to \$1.5 million
25 over the three or four year life of the conspiracy.

1 The evidence will show that that money paid for the
2 defendant's living expenses, it paid for his trips to Hawaii, for
3 his expensive guns, and also for specific obligations he owed,
4 such as child support obligations to his first wife.

5 In summary, your Honor, the evidence will show that the
6 defendant was a knowing participant in a scheme to defraud
7 mortgage lenders and private sellers in connection with these
8 real estate deals.

9 The defendant and his co-conspirators used lies to get
10 mortgage loans, and then more lies to siphon cash from closing
11 these real estate deals, even as they were buying houses.

12 They then took the cash and laundered it in several ways,
13 including reinvesting it, recycling it through further fraudulent
14 deals.

15 At the close of the evidence, your Honor, the government will
16 ask that the court find Mr. Poff guilty on all the counts. Thank
17 you.

18 THE COURT: Mr. Poff.

19 THE DEFENDANT: Can I sit here or stand at the podium,
20 sir?

21 THE COURT: We are going to hold you to the standard of
22 the attorneys. There is a rule in this district, normally with
23 the exception of objecting to the evidence, which can be made
24 from the table, presentations are made from the podium.

25 THE DEFENDANT: Yes, sir. Good afternoon, your Honor.

1 The evidence will show I am William Stuart Poff, which is
2 spelled as I had spelled it earlier, with the first letter of
3 each of my three names capitalized, the rest of the letters in
4 lower case.

5 The evidence will show that I am an American, a sovereign
6 national, whose nativity was in the Ohio Republic. I am now a
7 native of the Michigan Republic.

8 The evidence will show I am a nonresident or that I am
9 domiciled within the District of Columbia.

10 The evidence will show I am not a vessel, that I was
11 referring to earlier, of the United States, but I am actually
12 a -- per my Christian faith, a vessel of the Holy Spirit as
13 evidenced in the word of God, which is defined as the word of
14 God, per public law 97-280.

15 The evidence will show that the fictional corporate entity
16 known as WILLIAM S. POFF, in all caps, is a fraudulent
17 contrivance of colorable law, known as statutes, which is in
18 contradiction to my First Amendment right to freedom of religion
19 in regards to any reference to any vessel.

20 The evidence will show I am not an employee, franchisee or an
21 instrumentality of the United States.

22 The evidence will show that there does not exist, absent
23 fraud, a valid contract compelling the sovereign, William Stuart
24 Poff, to perform to any of the aforementioned conditions.

25 The evidence will show there does not exist, absent fraud,

1 again, a valid maritime contract, bringing the claimed alleged
2 defendant into the special maritime and territorial jurisdiction
3 of this honorable court.

4 The evidence will show presumed admiralty jurisdiction, which
5 was rebutted, was never lawfully proven.

6 The evidence will show the true cause and nature of the
7 action brought against me was never revealed and/or disclosed,
8 and the plaintiffs are actually proceeding in fraudulent
9 concealment.

10 The evidence will show the claimed alleged defendant has been
11 claiming and objecting to the obvious fraud being perpetrated
12 against him this entire time.

13 The evidence will show none of the claimed alleged
14 defendant's briefs and filings were ever properly answered by the
15 plaintiffs.

16 The evidence will show the plaintiffs are in default, and
17 cannot prevail on any of the merits, as all my pleadings are
18 deemed true and factual by default at this time.

19 The evidence will show, since my pleadings, by default, are
20 now lawful fact, the plaintiff simply cannot prevail on any of
21 the merits.

22 The evidence will show the plaintiffs by fraudulent
23 concealment provided what is called sham answers, in violation of
24 Title 5, United States Code, 566(d) and Section 706.

25 The evidence will show many violations of due process

1 codified in Title 5, United States Code, Section 557, have been
2 violated, particularly the sham answers, per Rule 37 Alpha,
3 Federal Rules of Criminal Procedure.

4 THE COURT: Mr. Poff, do you want to slow down one beat
5 and breathe periodically, or else our very talented court
6 reporter is not going to get a very good transcript.

7 THE DEFENDANT: I do apologize.

8 THE COURT: Remember to breathe every once in a while.

9 THE DEFENDANT: I apologize. The evidence will show I
10 was arraigned before a United States magistrate twice, which is
11 unlawful to be arraigned for a felony charge before a U.S.
12 magistrate.

13 The evidence will show both of those magistrates are guilty
14 of practicing law from the bench by entering a plea of not guilty
15 on my behalf, when I never gave anyone permission to speak on my
16 behalf.

17 The evidence will show, without any lawful authority, the
18 magistrate presiding over the December 10th, 2009 arraignment
19 proceeded after the alleged accused stated he did not understand
20 the charges being brought against him, and then arbitrarily
21 decided that he did understand the charges being brought against
22 him.

23 The evidence will show the claimed alleged defendant was
24 denied discovery, which was instrumental in the defense of his
25 case.

1 The evidence will show my rights under the Speedy Trial Act
2 were actually violated.

3 The evidence will show the U.S. government does not have
4 jurisdiction over an alleged offense committed within the state
5 zone, and not within any federal area.

6 The evidence will show that jurisdiction was never
7 emphatically proven.

8 The evidence will also show, whenever the plaintiffs claim
9 jurisdiction under the Commerce Clause of the Constitution, what
10 they actually mean, through fraudulent concealment, is a
11 condition of a maritime contract of compelled performance of an
12 undisclosed contract of sorts, which jurisdiction is extended
13 into this court -- I'm sorry, this court's admiralty jurisdiction
14 by Congress through statute.

15 The evidence will show no valid contract according to common
16 law or the UCC exists. There exists no contract that was entered
17 into knowingly and willingly, absent fraud, by the claimed
18 alleged defendant.

19 The evidence will show any contract purporting to compel the
20 claimed alleged defendant is an unconscionable contract as
21 defined in Black's Law Dictionary.

22 The evidence will show that if there was any jurisdiction
23 existing, it was lost at the first violation of my rights of due
24 process as contemplated in Title 5, Section 706, which basically
25 states all jurisdiction ceases if any of the planks of due

1 process are violated.

2 The evidence will show that Title 28 states that there shall
3 be but one form of action, and that is a civil action.

4 The evidence will show that the Constitution provides two
5 forms of criminal jurisdiction; one being common law, and the
6 other being admiralty.

7 The evidence will show that the common law was abolished at
8 the federal level in 1938 in a famous Supreme Court case, Erie
9 Railroad versus Tompkins, 304 U.S. 64.

10 The evidence will show it is axiomatic that the only
11 jurisdiction left is the admiralty jurisdiction of this honorable
12 court, which is of a civil nature with criminal penalties.

13 The evidence will show the gold-fringed flag in the courtroom
14 is judicial notice of admiralty jurisdiction, which is properly
15 displayed in all military courtrooms per Military Manual on
16 Courts Martial.

17 The evidence will show, per 27 CFR, all crimes are
18 commercial.

19 The evidence will show the Department of Justice is attached
20 to the seat of government, is governed by statute, Title 28,
21 United States Code, Section 501, to-wit: The Department of
22 Justice is an executive department of the United States at the
23 seat of government.

24 The evidence will show the Department of Justice and its
25 subagencies are restricted from exercising their authority

1 anywhere outside the District of Columbia, as codified in
2 Title 4, United States Code, Section 72, to-wit: Public offices
3 at the seat of government. All offices attached to the seat of
4 government shall be exercised in the District of Columbia, and
5 not elsewhere, except as otherwise expressly provided by law.

6 The evidence will show the investigative authority of the
7 Attorney General is exemplified in Title 28, United States Code,
8 Section 535, which in part says: May investigate any violation
9 of Title 18 involving government officers and employees.

10 The evidence will show that since the end of my active duty
11 time in the United States Marine Corps I have not been a
12 government officer or employee.

13 The evidence will show I have not paid into Social Security
14 since my time in the military.

15 The evidence will also show I was frauded at the age of 15 or
16 16, approximately, into signing up for Social Security before the
17 lawful age of majority.

18 The evidence will show as a result of misinformation and
19 disinformation in the public fool system, that I was led to
20 believe I was a statutory United States citizen, which is fraud
21 being perpetrated upon America's youth by federally-funded public
22 schools.

23 The evidence will show I am American, a sovereign national,
24 who since leaving the military has been a native of two republic
25 states of the United States of America.

1 The evidence will show I have suffered irreparable harm in
2 this instant case.

3 The evidence will show that I am not a vessel, that I was
4 referring to earlier, your Honor, as contemplated in Title 18,
5 United States Code, Section 7, special maritime jurisdiction of
6 the United States, subsection (1).

7 The evidence will show, in regards to the aforementioned, the
8 presumed vessel was not in the admiralty or maritime jurisdiction
9 of the United States, because the presumed vessel was inside the
10 jurisdiction of a particular state, the Washington Republic.

11 The evidence will show that the claimed alleged defendant was
12 not in any area acquired by the United States by consent of the
13 legislature of that particular state, which would include a fort,
14 a magazine, an arsenal, a dockyard or other needful building.

15 The evidence will show in a now famous Supreme Court case,
16 United States v. Lopez, the Supreme Court agreed that Congress
17 possesses nothing approaching a national police power concerning
18 the aspects of criminal law.

19 The evidence will show that the United States and the United
20 States of America are not one and the same.

21 The evidence will show that the U.S. Attorney does not enjoy
22 general powers of attorney to represent the United States of
23 America, as is on the pleadings and briefs.

24 The evidence will show that the alleged infractions in Title
25 18 are against the United States, and not the United States of

1 America, which is willful misrepresentation and fraudulent
2 concealment.

3 The evidence will show that interstate commerce, as codified
4 in Title 18, are the territorial possession states of the federal
5 government, and not the 50 states of the union. Some of the
6 states that are codified, that are territories, that are defined
7 as states of the United States would be Puerto Rico, U.S. Virgin
8 Islands, America Samoa, etcetera.

9 The evidence will show there does not exist any entity known
10 as the UNITED STATES OF AMERICA, again in all caps, that has the
11 capacity to sue or be sued or bring a criminal prosecution
12 against anyone who is a native of a union state.

13 The evidence will show, per the 2008 edition of the
14 Government Printing Office's Style Guide, all so-called vessels
15 are printed in all capitalized letters.

16 The evidence will show nowhere am I compelled to perform to
17 such fiction except through fraud and presumption.

18 The evidence will show I am non-assumpsit of all adhesion
19 contracts, which purport to transform me into a juristic person
20 whose domicile is in the District of Columbia.

21 The evidence will show there is no statutory, no regulatory
22 and no constitutional authority which grants legal standing to
23 the United States of America to bring a criminal action before a
24 United States District Court.

25 The evidence will show there is no standing or grant of

1 jurisdiction to the United States District Court, as opposed to a
2 District Court of the United States, to hear an alleged criminal
3 case against a union state native when the alleged crime was
4 committed inside the state zone and outside the federal zone.

5 The evidence will show the Constitution for the United States
6 has delegated Congress the power to punish treason,
7 counterfeiting, piracies, felonies committed on the high seas,
8 and offenses against the law of nations, and no other crimes
9 whatsoever. It is evident William Stuart Poff has not violated
10 any of these crimes so enumerated within our Constitution.

11 The evidence will show many of the so-called financial
12 institutions were not federally insured or chartered.

13 The evidence will show the legal maxim, *ex dolo malo non*
14 *oritur actio*, out of fraud no action arises. This honorable
15 court will not be able to sustain any conviction from the fraud
16 being perpetrated against me.

17 The evidence will show that there are no implementing
18 regulations for Title 18, United States Code, Section 7, and
19 Section 3231, which proves that jurisdiction of the United States
20 does not extend into the several states of the union.

21 The evidence will show any maritime contract in the admiralty
22 jurisdiction would have to validate debt and produce the true
23 creditor of interest, per Title 15, United States Code,
24 1692(g) (b). In admiralty it is vital that all parties that are
25 truly involved be brought forth.

1 The evidence will show William Stuart Poff reported fraud
2 when he first learned of any fraud to the proper authorities of
3 someone in the military, which would give the claimed alleged
4 defendant protection under the Whistleblowers Protection Act.

5 The evidence will show that William Stuart Poff conducted
6 himself uprightly, obeying all law, and constantly trying to help
7 his fellow man.

8 The evidence will show that William Stuart Poff, as far as he
9 was aware at the time, was not doing anything that broke the law,
10 and was constantly being advised by legal counsel and licensed
11 professionals that everything was above board, always acting in
12 good faith, with lack of intent to defraud anyone.

13 The evidence will show that William Stuart Poff was frauded
14 and deceived by so-called alleged co-conspirators.

15 The evidence will show that William Stuart Poff's name was
16 forged on many documents, raising suspicion on all documentary
17 evidence.

18 The evidence will show William Stuart Poff was not a
19 ringleader or a mastermind of any criminal conspiracy.

20 The evidence will show that William Stuart Poff is being set
21 as the fall guy for the alleged crime in this conspiracy,
22 particularly by his ex-wife, Alexis Ikilikyan.

23 The evidence will show that William Stuart Poff's ex-wife,
24 Alexis Ikilikyan, has continued a pattern of fraud, particularly
25 absent the presence of her ex-husband. An example would be while

1 I have been living in Michigan since the divorce.

2 The evidence will show that Alexis Ikilikyan was self
3 sufficient in the furtherance of the scheme.

4 The evidence will show that William Stuart Poff was a good
5 husband, who was ultimately cheated upon, by adultery, and
6 divorced by his ex-wife, which is indicative of someone's
7 character who would commit fraud to obtain something they
8 desired, an any-which-way, who-cares-about-who-you-harm-or-hurt
9 mentality.

10 The evidence will show that Alexis Ikilikyan was a license
11 holder to both the real estate and mortgage businesses, in
12 contradiction to her earlier testimony.

13 The evidence will show that William Stuart Poff quite
14 literally lived in a spare room used in a closet -- used as a
15 closet in a friend's house, while his ex-wife, Alexis Ikilikyan,
16 lived in an opulent, 6000-square-foot lakefront house in Auburn.

17 The evidence will show, per United States Supreme Court
18 decision in United States versus Santos, that the profits and not
19 the proceeds largely eliminates any money laundering charges.

20 The evidence will show, according to the corpus juris
21 secundum, admiralty is a unique body of law particularly
22 appropriate to the regulation and settlement of the special
23 problems arising out of sea navigation and commerce.

24 The evidence will show exclusive admiralty jurisdiction is
25 vested in the federal courts, and it may not be exercised by

1 legislative courts or any executive official.

2 The evidence will show that plaintiffs had not affirmatively
3 established their right to invoke the jurisdiction of the
4 admiralty.

5 The evidence will show the maritime cause and nature of this
6 cause is not salty enough to come into the admiralty jurisdiction
7 of this court, and are not substantially related to the
8 traditional maritime activity.

9 The evidence will show in the admiralty William Stuart Poff
10 has several rights that have been violated, and the United States
11 loses its sovereign immunity in several different ways.

12 The evidence will show equitable principles and the granting
13 of equitable relief are proper when exercising a court's
14 admiralty jurisdiction.

15 The evidence will show, again, according to the corpus juris
16 secundum, admiralty is presumed to be appropriate in any activity
17 traditionally undertaken by vessels, commercial or noncommercial.
18 This is where the fictional vessel, WILLIAM S. POFF, in all caps,
19 is the thing that was arrested by U.S. Marshals and forced and
20 compelled to appear before this honorable court. This is fraud,
21 pure and simple.

22 The evidence will show that William Stuart Poff, if presumed
23 to be a vessel, is wearing the constitutional flag of peace on my
24 lapel, the flag of the United States of America, which is the
25 proper flag reference in Title 4, United States Code, Section 8.

1 The evidence will show that William Stuart Poff is not guilty
2 of breaking any law whatsoever.

3 In summation of my opening statement, the evidence will show
4 that William Stuart Poff can tend to be redundant at times.

5 THE COURT: Thank you, sir. Ladies and gentlemen,
6 customarily in trials the plaintiff gives an opening statement.
7 Most of the time the defendant gives an opening statement. I
8 don't believe I have ever seen an instance where the court gives
9 an opening statement. So I am about to violate that rule. I
10 guess it is not a rule, it is more of a custom.

11 Part of this is out of respect to Mr. Poff, who has exercised
12 his absolute right to be his own counsel, over the strenuous
13 urgings of the court that is not a good idea. But that is
14 obviously his choice.

15 Let me tell you, when we come back from our afternoon break,
16 we will begin by the government calling its first witness. But
17 let me give you a couple of points to ponder in the meantime. If
18 we went back to I believe it was at Runnymede in the 13th
19 century in England, we would find there was an all powerful king,
20 who was largely supported by a group of nobles. Nobles got
21 unhappy with the king and basically decided that they wanted to
22 make a few changes. Out of that came a document, the
23 Magna Carta, which we all studied in school, or at least we used
24 to study in school. I think very few people appreciate that it
25 has continued as a huge influence on the American legal system,

1 which is in substantial part derivative of the English legal
2 system. In my simplified form of what part of the Magna Carta
3 meant, it divided responsibilities that go on in this room into
4 two parts. The nobles have descended over the centuries to the
5 role of the jury. That is, they find the facts. In this
6 instance, we don't have a jury, and the parties have consented to
7 the court being both the jury and the judge.

8 So what was the king? Well, the king was in effect the
9 judge. They gave to the king the right to continue to make the
10 law. And descending over the centuries, that is what I do. I
11 don't get to make the law, but I give the law, by virtue of the
12 statutes that are enacted by Congress.

13 So there are certain arguments that are made that are
14 addressed to me in my role as the judge, which I decide on the
15 basis of the law. I don't hear evidence about them. They are
16 legal questions which I rule on.

17 There are other questions which clearly involve factual
18 determinations, and those are things that appropriately are the
19 subject of evidence.

20 So let me tackle first what I am going to do in my role as a
21 judge, since they don't give me either a crown or a treasury, but
22 rather a gavel. I decide jurisdiction. I look at the case law,
23 I follow the law of the United States Supreme Court and the Ninth
24 Circuit. The types of arguments that have been made today about
25 admiralty jurisdiction are ones that can be answered by looking

1 in the books and seeing if they have been accepted or not.

2 Sometimes legal arguments are made that simply are not
3 relevant to issues that are before me. I have not asked, nor
4 would I be competent to rule on issues that are not presented in
5 the precise charges that have been brought in this matter. So
6 while it may be of more than academic interest the age at which
7 people sign up for Social Security, it has to have something to
8 do with the charges that the government is bringing.

9 Sometimes I will look at issues and simply say, that's nice,
10 but it doesn't have anything to do with this. For example, the
11 government printing office style manual may well have something
12 to do with official publications of the government printing
13 office, but it doesn't have anything to do with me. And,
14 therefore, I may well not attach any significance to what the
15 government printing office style manual says.

16 There are other things that clearly are questions -- issues
17 that are questions of fact, in which, had we a jury, I would
18 permit testimony about. Since we don't have a jury, I will hear
19 the evidence in regard to that and make legal determinations.

20 An example of that would be Mr. Poff's statement that he was
21 defrauded by the co-conspirators. To the extent that being
22 defrauded by the co-conspirators is a defense to these charges,
23 then that is something appropriate for evidence.

24 Clearly an allegation that his signature was a forgery is a
25 question of fact, and is something that the court will hear

1 evidence in regards to.

2 In accepting that evidence I am bound by the rules of
3 evidence that speak to two situations. One is the situation of
4 what is permissible evidence, and the second is what is the
5 character of that evidence.

6 And so, for example, conduct of someone, be it Mother Theresa
7 or Mr. Poff's ex-wife, about what they did with their life after
8 this particular set of facts was over with, may or may not have
9 any relevance to the issues before the court. There are rules
10 that speak to the use of character evidence. Character evidence
11 can be proven by both opinion testimony and also by conduct of
12 the people, but it is not something that is unregulated under the
13 rules of evidence.

14 The court from time to time will make decisions on those
15 issues that are presented to me in the context of legal
16 arguments, where I make decisions on the legal record. When I do
17 so, if I have any ambiguity in my mind, I will ask for argument
18 from counsel. I may from time to time ask, in regards to a
19 particular issue, where I can best locate it in the record. That
20 will be the extent of the court's ruling on those matters. And
21 once I have ruled on those issues, there will not need to be
22 further objections or the further offering of evidence in regards
23 to them. I will simply make sure that the record is preserved
24 for both sides as to the fact that that argument was made.

25 Mr. Poff, to the extent that you would like to read this, I

1 would urge you to take a look at those cases that I was remarking
2 on on Friday, U.S. v. Marks, which is found at 550 F. 3d, 799, as
3 an example of the Ninth Circuit, who reviews my handling of
4 cases, their articulation of the distinction I have been trying
5 to explain today.

6 The other thing I would like to make clear is that, until I
7 rule on some of these legal arguments, participation in this
8 proceeding does not in any manner waive the argument. For
9 example, the fact that there is pending a motion to dismiss for
10 violation of the Speedy Trial Act, the fact we have started the
11 trial and we have begun to hear testimony in no manner impacts
12 that. You don't waive your argument by virtue of participation
13 in this proceeding.

14 So hopefully those remarks are more informative and will
15 allow the parties to understand how we will proceed in this
16 matter.

17 At this time the court will take its afternoon break, we will
18 come back out a little bit before 3:00, and the government should
19 be prepared to call its first witness. We will be in recess.

20 (At this time a short break was taken.)

21 THE COURT: Ms. Vogel, are you prepared to begin?

22 MS. VOGEL: Yes, your Honor.

23 THE COURT: Please call your first witness.

24 MS. VOGEL: The United States calls Adam Burt.

25 Whereupon,

1 ADAM BURTT

2 Called as a witness, having been first duly sworn, was examined
3 and testified as follows:

4 THE CLERK: Will you state your name for the record and
5 spell your last name?

6 THE WITNESS: Adam Burtt, B-U-R-T-T.

7 DIRECT EXAMINATION

8 By Ms. Vogel:

9 Q Mr. Burtt, where are you employed?

10 A With Immigration and Customs Enforcement, Office of
11 Investigations, here in Seattle.

12 Q What is your title?

13 A I am a special agent.

14 Q How long have you been a special agent with ICE?

15 A Since 2005.

16 Q And what have you done -- what did you do before you joined
17 ICE?

18 A I was an intern at what was then INS before I went to
19 college.

20 Q Where did you go to college?

21 A At the University of Washington.

22 Q Did you receive a degree from the University of Washington?

23 A I did, a Bachelor's degree in Latin American studies.

24 Q While you were going to college, were you also in the
25 military?

1 A Yes, I was in the Navy Reserve.

2 Q And prior to being in the reserves and going to college, what
3 did you do?

4 A I was activity duty in the Navy for four years.

5 Q What was your job in the Navy?

6 A I was an intelligence specialist.

7 Q What does that mean?

8 A Analyze and disseminate intelligence that we gather as part
9 of our reconnaissance squadron.

10 Q How long were you in the Navy?

11 A For four years, active duty.

12 Q So four years in the Navy, four years Reserves while in
13 college, and since then how many years with ICE?

14 A As a special agent, since 2005.

15 Q What is your current assignment?

16 A I am assigned to the human trafficking group in Seattle.

17 Q Do you have any experience investigating mortgage fraud?

18 A I have the experience -- the training that we received at the
19 initial law enforcement academy, and then what I have learned in
20 this case.

21 Q What is your role in the investigation into the conduct that
22 led to the indictment of the defendant, Mr. Poff?

23 A I am the case agent assigned by ICE.

24 Q What does that mean?

25 A I am the ICE representative to the investigation, and in

1 charge of the overall progression of the case.

2 Q Have there been other agencies that have assisted in this
3 investigation?

4 A Yes.

5 Q And what are some of those agencies?

6 A The Department of Licensing and the Department of Financial
7 Institutions.

8 Q When did the investigation into the conduct resulting in the
9 charges against the defendant, Mr. Poff, begin?

10 A In November of 2006.

11 Q How did it begin?

12 A It actually began as an alien smuggling investigation into
13 the conduct of Tony Reyes.

14 Q And how did that change into a mortgage fraud and financial
15 investigation?

16 A After financial records were obtained and analyzed, we
17 determined that we had -- that there were additional financial --
18 suspicious financial transactions occurring between Mr. Reyes and
19 other defendants in the case. At that point we focused our
20 investigation on the financial side of the case.

21 Q At some point did you realize you were looking at mortgage
22 fraud type of conduct?

23 A Yes, immediately.

24 Q And when you realized that, what did you do, seeing as you
25 are an alien smuggling investigator primarily with ICE?

1 A I consulted other ICE agents that are more familiar with wire
2 fraud, bank fraud, along with money laundering. I also spoke
3 with agents with the FBI who were experienced in investigating
4 mortgage fraud. I spoke with agents from the Housing and Urban
5 Development Inspector General's Office, as well as
6 representatives from the Department of Licensing, Department of
7 Financial Institutions and mortgage professionals.

8 Q And throughout your investigation in this case, have you
9 relied on those individuals' advice and expertise, as well as
10 your own?

11 A Yes.

12 Q As a result of your investigation in this particular case,
13 who were the primary people that you and your colleagues focused
14 on?

15 A Tony Reyes, Alexis Ikilikyan, William Poff, Mario Marroquin
16 and Mickey Thompson.

17 Q And can you please look at Exhibit 2? Is this a compilation
18 of drivers' license photos for those individuals you mentioned,
19 as well as two other people?

20 A Yes.

21 Q Who are the other two people that are pictured on Exhibit 2?

22 A Ms. Harutyunyan, which is Alexis Ikilikyan's mother, and
23 Timothy Thomson, who is a straw buyer.

24 Q And at some point throughout the investigation have you
25 personally met every one of the people listed on Exhibit 2, such

1 that you are able to identify their photographs?

2 A I have.

3 MS. VOGEL: I would move to admit Exhibit 2, your Honor.

4 THE COURT: Any objection?

5 THE DEFENDANT: No objection, your Honor.

6 THE COURT: Exhibit 2 is admitted, and may be published.

7 (2 admitted.)

8 By Ms. Vogel:

9 Q Were there others interviewed who were arrested who were part
10 of the investigation who are not pictured on government's
11 Exhibit 2?

12 A Yes.

13 Q And as a result of your investigation, what business or
14 businesses did you eventually focus on?

15 A Great American Escrow.

16 Q What is that?

17 A It is an escrow company located in Federal Way, Washington.

18 Q Who owns Great American Escrow?

19 A Christopher Benson.

20 Q Is it still open today?

21 A No.

22 Q When approximately did it close?

23 A Shortly after the warrants, which were in June of 2009.

24 Q And if we could look at Exhibit 2, please? Are any of those
25 individuals associated with Great American Escrow?

1 A Yes.

2 Q Who is that?

3 A Mickey Thompson.

4 Q What is her role with Great American Escrow?

5 A She was the escrow officer.

6 Q Why did you focus on Great American Escrow?

7 A The vast majority of the transactions that we were
8 investigating at the time, Mickey Thompson was the closing
9 officer.

10 Q Agent Burtt, can you please summarize briefly for us what
11 methods you and the other investigators used as part of your
12 investigation in this case?

13 A Primarily we used review of documents. We reviewed documents
14 from escrow and lender files, real estate broker and real estate
15 files, public records, to include deeds of trust, state
16 employment records. We looked at mortgage broker records, bank
17 records, to include tax records and other financial records. In
18 addition to that, we also interviewed a number of witnesses and
19 participants in the overall scheme, and conducted limited
20 surveillance.

21 Q With regard to the records, how many pages of records are we
22 talking about?

23 A Over a hundred thousand.

24 Q Was there also a complete financial investigation conducted
25 as part of your overall investigation?

1 A Yes.

2 Q And who conducted that, the bulk of the financial
3 investigation?

4 A Becky Carnell, who is assigned to the U.S. Attorney's Office.

5 Q And have you relied upon her review of bank and financial
6 records and conclusions primarily for the financial part of this
7 case?

8 A Yes.

9 Q At some point in your investigation did you obtain
10 indictments?

11 A Yes.

12 Q And what did you do after those were obtained?

13 A We served search warrants and arrest warrants.

14 Q When did that happen?

15 A On June 3rd of 2009.

16 Q Where were the search warrants executed?

17 A In Tacoma, Washington; Federal Way, Washington; Auburn,
18 Washington; and Seattle.

19 Q And was one of those search warrants at the business office
20 of Great American Escrow?

21 A Yes.

22 Q And primarily what was seized during the search warrant at
23 Great American Escrow?

24 A Escrow documents.

25 Q What was your role in those search warrants?

1 A I was responsible for the overall completion of the search
2 warrants, along with being a team leader for the search warrant
3 at Mr. Reyes' location, as well as once the evidence was seized
4 and returned to our evidence custodian, making sure the evidence
5 was scanned and promptly turned over for discovery.

6 Q And were you also involved in the arrests on June 3rd?

7 A Yes.

8 Q Who was arrested on that day?

9 A Tony Reyes, Alexis Ikilikyan, William Poff, Mario Marroquin
10 and Mickey Thompson.

11 Q And in what state were each of those people arrested?

12 A Mickey Thompson and Tony Reyes, Alexis Ikilikyan and Mario
13 Marroquin were arrested in Washington State, and William Poff was
14 arrested in Michigan.

15 Q In preparation for trial today, did you help to prepare this
16 table on the big chart there in front of you?

17 A Yes.

18 Q And is that based on your review of the available --
19 primarily the available public property records --

20 A Yes.

21 Q -- for those eight transactions? I will go through what is
22 on this chart. Not the details or the contents so much as the
23 categories. Looking at the first column where it is numbered 1
24 through 8, is that just a line number assigned to track the
25 lines?

1 A That's correct.

2 Q The second column says "closing date and recorded price."
3 What does that information reflect and where did it come from?

4 A It came from county deeds. It is the closing date and the
5 amount of the sales price.

6 Q When you say "county deeds," these are the actual recorded
7 instruments in the county where the property is located?

8 A Yes.

9 Q And the second column where it says "property," what is the
10 information contained in that column?

11 A That was the individual property addresses for each
12 transaction.

13 Q Where did you obtain that information in preparing this
14 chart?

15 A Also from county deeds.

16 Q Now, with respect to some of these properties on this chart,
17 is there a little bit of disagreement among various records as to
18 exactly what the address is?

19 A Yes.

20 Q And can you tell us what the properties involved in this
21 disagreement are?

22 A The three duplexes listed at 72nd Avenue East have also been
23 listed with a 90th series address. And at the time of the
24 sale --

25 Q When you say "90th series," do you mean 90th Avenue?

1 A Yes.

2 Q Some avenue number in the 90s?

3 A Yes. At the time of the sale, the county or the city was
4 reorganizing the street addresses in that location, and there was
5 some confusion at the time of the sale on particular documents on
6 what the actual address was.

7 Q So in your review of the recorded records and other
8 documents, do you see these written either with 72nd Avenue or
9 with 90th or some other number in the 90s as well?

10 A Yes.

11 Q When you did your review of the county records, how did you
12 make sure you were referring to the correct property?

13 A I compared it with the parcel number used on the state
14 assessor's website.

15 Q And was there a dispute among -- some sort of inconsistency
16 in the address of one of the other properties as well?

17 A The Yelm property, transaction number 5, has also been listed
18 as on Yelm Highway Southeast, and it is just listed on different
19 documents as such.

20 Q So sometimes it says Yelm Avenue Southwest and sometimes it
21 says Yelm Highway Southeast?

22 A Yes.

23 Q And, again, did you use the tax parcel number to confirm?

24 A I did.

25 Q Looking at the third column where it says "buyer," what

1 information is contained in that column and where did it come
2 from?

3 A It is the listed buyer for each transaction, and it also came
4 from county deeds.

5 Q Is that the buyer's last name?

6 A Yes.

7 Q And the seller?

8 A The same. The individual who sold the property, which is
9 also listed on the county deeds by last name.

10 Q And the column that says "lender financing," where did that
11 information come from in your preparation of this chart?

12 A It also came from the county deeds.

13 Q And specifically was it those deeds of trust that were
14 recorded by those lenders?

15 A Yes.

16 Q And where it says "other financing," what information is
17 conveyed there, and where did it come from?

18 A The information is any seller financing associated with the
19 transaction.

20 Q And, again, where did that come from?

21 A From the county deeds, the deeds of trust.

22 Q All of the seller financing information?

23 A The very first transaction, the three Anderson loans, those
24 we could not actually locate a deed for those seller financing
25 notes. We did obtain copies of those documents from Evergreen

1 **Escrow.**

2 Q And the final column of this chart, which we are calling
3 Exhibit 1, it says "counts in addition to the conspiracies,"
4 where did the information for that column come from?

5 A Those counts came from the indictment.

6 Q I want to talk for a minute about all these records that you
7 obtained and reviewed, and go through some of the categories of
8 those documents. I will start with the public documents, Agent.
9 Generally speaking, for each of these properties on the chart,
10 what sort of public records did you obtain and review?

11 A Statutory warranty deeds, deeds of trust, quitclaim deeds and
12 notice of trustee sale.

13 Q And for each of those categories of documents pertaining to
14 each of our eight properties on the chart, did you obtain
15 certified copies of publicly recorded documents from the counties
16 where those properties are located?

17 A Yes.

18 Q What are the exhibit numbers of the certified public records,
19 and I am talking about the deeds now, that you obtained that
20 pertain to property number one on our chart?

21 A Exhibit Numbers 104, 105, 106, 107, 108, 109, 110, 111, 112.

22 Q What county did you obtain those records from?

23 A They were obtained from Pierce County.

24 MS. VOGEL: Move the admission of those exhibits, 104
25 through 112.

1 THE COURT: Any objection?

2 THE DEFENDANT: No objection, your Honor.

3 THE COURT: The exhibits are admitted.

4 (104 - 112 admitted.)

5 By Ms. Vogel:

6 Q And what certified public records -- now, again, I am talking
7 about deeds and other property records, did you obtain that
8 pertain to property number two on our chart?

9 A Those would also be statutory warranty deeds, deeds of trust,
10 notice of trustee sale.

11 Q What are the exhibit numbers of those exhibits?

12 A Exhibit Number 204, 205, 206, and 207.

13 Q And what county did you obtain those records from?

14 A From King County.

15 MS. VOGEL: Move the admission of Exhibits 204, 205, 206
16 and 207.

17 THE COURT: Any objection?

18 THE DEFENDANT: No objection, your Honor.

19 THE COURT: They are admitted.

20 (204 - 207 admitted.)

21 By Ms. Vogel:

22 Q Can you tell us what certified property records that you
23 obtained that relate to count -- to property number three on the
24 chart?

25 A Statutory warranty deeds, deeds of trust, certified notice of

1 trustee sale.

2 Q And what are those exhibit numbers, please?

3 A Number 304, 305, 306, 307.

4 MS. VOGEL: Move the admission of 304 through 307.

5 THE COURT: Any objection?

6 THE DEFENDANT: No objection, your Honor.

7 THE COURT: They are admitted.

8 (304 - 307 admitted.)

9 By Ms. Vogel:

10 Q What are the certified property records that you obtained
11 that pertain to property number four on our chart?

12 A Statutory warranty deeds, deeds of trust, notice of trustee
13 sale.

14 Q What are those exhibit numbers, please?

15 A Numbers 404, 405, 406, 407, 408 and 431.

16 MS. VOGEL: Move the admission of those records as
17 public documents.

18 THE COURT: Any objection?

19 THE DEFENDANT: No objections, your Honor.

20 THE COURT: Those exhibits are admitted.

21 (404 - 408 & 431 admitted.)

22 By Ms. Vogel:

23 Q Agent, what are the exhibit numbers of the certified public
24 records in the way of deeds and trusts that you obtained
25 pertaining to property number five on the chart?

1 A Numbers 504, 505 and 506.

2 Q And what county did you obtain those records from?

3 A Thurston County.

4 Q As to property six on the chart, what are the exhibit numbers
5 of the certified deeds that you obtained that relate to that
6 property?

7 THE COURT: Counsel, are you moving the admission of
8 504?

9 MS. VOGEL: I'm sorry, yes, your Honor, 504, 505 and
10 506.

11 THE COURT: Any objection?

12 THE DEFENDANT: No objection, your Honor.

13 THE COURT: They are admitted.

14 (504 - 506 admitted.)

15 By Ms. Vogel:

16 Q Moving to property six, Special Agent. What are the exhibit
17 numbers for the certified deeds that you obtained pertaining to
18 that property?

19 A Numbers 604, 605, 606, 607, 608, 609.

20 Q And what county did those come from?

21 A King County.

22 MS. VOGEL: Move the admission of those exhibits.

23 THE COURT: Any objection?

24 THE DEFENDANT: No objections, your Honor.

25 THE COURT: They are admitted.

(604 - 609 admitted.)

By Ms. Vogel:

Q Property number seven, Agent, did you also obtain certified copies of deeds and other property documents from the county in which that property was located?

A Yes.

Q And what are those exhibit numbers?

A 702, 703, 716.

Q What county were those documents obtained from?

A Pierce County.

MS. VOGEL: Move the admission of 702, 703 and 716.

THE COURT: Any objection?

THE DEFENDANT: No objection.

THE COURT: Admitted.

(702, 703 & 716 admitted.)

By Ms. Vogel:

Q And finally, Agent, as to property number eight, did you also obtain certified copies of county records for that property?

A Yes.

Q And what are those exhibit numbers?

A 804, 805, 806, 807 and 808.

MS. VOGEL: Move the admission of those exhibits.

THE COURT: Any objection?

THE DEFENDANT: No objection, your Honor.

THE COURT: Those exhibits are admitted. Counsel,

1 before you move on, did you move the admission of Exhibit 112?

2 (804 - 808 admitted.)

3 MS. VOGEL: According to my notes I did.

4 THE COURT: Madam Clerk, will you confirm that?

5 MS. VOGEL: If I didn't, I will do so now.

6 THE COURT: I believe 104, 105, 106, 107, 108, 109, 111
7 and 112 were all moved and admitted.

8 MS. VOGEL: I intended to move that entire series 104
9 through 112. That would include 109, 110, 111 and 112.

10 THE COURT: Does that coordinate with your notes,
11 Mr. Poff?

12 THE DEFENDANT: There are no objections to it.

13 THE COURT: They are admitted.

14 By Ms. Vogel:

15 Q In addition to the deeds and certified county property
16 records that we have just talked about, did you also obtain
17 public -- certified public documents from various Washington
18 State public entities?

19 A Yes.

20 Q And, generally speaking, what type of documents were those?

21 A Notary of affidavit, master business applications, revenue
22 records from the Department of Revenue.

23 Q Let's start with the Washington Department of Licensing. Did
24 you obtain certified copies of public records from the Washington
25 State Department of Licensing?

1 A Yes.

2 Q And can you tell us what types of documents those are?

3 A Notary of affidavit for Mr. Poff, a master business
4 application --

5 Q I'm sorry, "notary of affidavit"? What do you mean? Is that
6 an application for a notary license?

7 A Yes.

8 Q And what else? I'm sorry.

9 A Copies of master business applications.

10 Q And what are the exhibit numbers on our list for those
11 exhibits that you obtained these certified copies?

12 A Numbers 22, 11, 12, and 236.

13 MS. VOGEL: Move the admission of Exhibits 11, 12, 22
14 and 236.

15 THE COURT: Any objection?

16 THE DEFENDANT: No objection, your Honor.

17 THE COURT: They are admitted.

18 (11, 12, 22 & 236 admitted.)

19 By Ms. Vogel:

20 Q Did you also obtain certified copies of public records from
21 the Washington State Department of Revenue?

22 A Yes.

23 Q And, generally speaking, what type of documents are those?

24 A Revenue records for businesses.

25 Q And what are the exhibit numbers for those records that are

1 on our exhibit list?

2 A 7, 13, and 234.

3 MS. VOGEL: Move the admission of 7, 13, and 234 as
4 public records.

5 THE COURT: Any objection?

6 THE DEFENDANT: No objection, your Honor.

7 THE COURT: 7, 13 and 234 are admitted.

8 (7, 13 & 234 admitted.)

9 By Ms. Vogel:

10 Q Did you also obtain records from the Washington Department of
11 Employment Security?

12 A Yes.

13 Q And were those certified public records?

14 A Yes.

15 Q And, generally speaking, what types of records are those?

16 A Employment security wage reports.

17 Q What are the exhibit numbers on our list for those documents?

18 A Numbers 8, 9, 10 and 235.

19 MS. VOGEL: Move the admission of Exhibits 8, 9, 10, and
20 235.

21 THE COURT: Any objection?

22 THE DEFENDANT: No objections, your Honor.

23 THE COURT: 8, 9, 10 and 235 are admitted.

24 (8, 9, 10 & 235 admitted.)

25 By Ms. Vogel:

1 Q Agent Burtt, did you also obtain certified copies of records
2 from the Federal Deposit Insurance Corporation?

3 A Yes.

4 Q And what, generally speaking, are the types of documents that
5 you got from the FDIC?

6 A FDIC certificates stating that the individual bank was FDIC
7 certified.

8 Q What are the exhibit numbers for those documents?

9 A 900, 901, 902.

10 MS. VOGEL: Move the admission of 900, 901, and 902.

11 THE COURT: Any objection?

12 THE DEFENDANT: No objections.

13 THE COURT: 900, 901 and 902 are admitted.

14 (900, 901 & 902 admitted.)

15 By Ms. Vogel:

16 Q Agent, I want to direct your attention now to the various
17 business records that you obtained as part of your investigation
18 in this case. Generally speaking, what types of businesses did
19 you obtain records from that we intend to introduce here at the
20 trial?

21 A Lenders, escrow companies, realtor records and bank records.

22 Q And in preparation for trial here today, did you or one of
23 your colleagues insure that we had, from the business records
24 custodian, a written certification pursuant to Federal Rule
25 902(11) for each of the business records that the government has

1 listed on the exhibit list for introduction here at trial?

2 A Yes.

3 Q And does that record certify that it was made at or near the
4 time of the occurrence by a person with knowledge of those
5 matters, and was kept in the course of the regularly conducted
6 activity of the business, and, third, was made in regularly
7 conducted activity as a regular practice of the company, or were
8 records received from others and kept in the regular course of
9 business, were relied upon by the company and were records of
10 which the company had a substantial interest in their accuracy?

11 A Yes.

12 Q Does each written certification have that language in it?

13 A Yes.

14 Q For example, for the records that were obtained from Great
15 American Escrow, since that is the largest batch of records we
16 will be dealing with here, what did you do personally to insure
17 that all of the Great American Escrow documents that we plan to
18 introduce here at trial were properly certified?

19 A I met with the owner of Great American Escrow, Christopher
20 Benson, and we reviewed each file.

21 Q And did he, after that review, submit written certifications
22 certifying that each of the documents by Bates number was a
23 record kept by Great American Escrow, as required by 902?

24 A Yes.

25 Q Let's start with the Great American Escrow records. What are

1 the exhibit numbers for the certified business records obtained
2 from Great American Escrow that pertain to property number one on
3 the chart?

4 A Numbers 143, 144, 145, 146, 148, 149, 150, 151 and 152.

5 Q And when I say "pertaining to property number one on the
6 chart," what does that mean?

7 A A document that either has that property address listed on it
8 or a document that was recovered or obtained from that particular
9 escrow file.

10 MS. VOGEL: Move the admission of the exhibits just
11 recited by the agent. Those are Exhibits 143, 144, 145, 146,
12 148, 149, 150, 151 and 152, as business records under the rule.

13 THE COURT: Any objection?

14 THE DEFENDANT: I am still reviewing those. Can you say
15 those numbers again, please?

16 MS. VOGEL: 143, 144, 145, 146, 148, 149, 150, 151 and
17 152.

18 THE DEFENDANT: One second, please. Actually, I have a
19 question. Can I voir dire the witness in regards to this?
20 Because some of these records were actually taken during the
21 search, and some were taken later on.

22 Is my understanding correct on that?

23 THE COURT: I will permit that voir dire question. Did
24 you hear the question?

25 THE WITNESS: One more time, please.

1 THE DEFENDANT: Yes, sir. Now, some of these records
2 you had seized during the search warrant itself, and some of
3 these records you had actually gotten afterwards, after the
4 search warrant; is that correct, from Great American Escrow, sir?

5 THE WITNESS: Yes.

6 THE DEFENDANT: Is there any way of knowing which set of
7 documents was taken during the search and which ones were taken
8 afterwards?

9 THE WITNESS: The documents are listed by Bates number.
10 Under the Bates number it will say search warrant GAE or just
11 escrow.

12 THE DEFENDANT: Are they noted on here then?

13 THE WITNESS: Yes.

14 THE DEFENDANT: When you had taken these, some of these
15 were just individual documents, or was it the entire file,
16 Special Agent, on these? How did you acquire some of these
17 documents?

18 THE WITNESS: These documents were taken as part of a
19 file.

20 THE DEFENDANT: Everything was part of a file and not
21 separate documents that you had taken from somewhere else within
22 the office?

23 THE WITNESS: From my knowledge of these particular
24 Bates numbers, I do not believe any of these documents were taken
25 single handedly off a desk or another file. I believe these were

1 all part of a particular escrow file, or a similar file that was
2 attached to that main escrow file.

3 THE DEFENDANT: Okay. That halfway answers my question.
4 I know when I saw the evidence the filing system at the escrow
5 wasn't stellar.

6 THE WITNESS: That's correct.

7 THE DEFENDANT: I guess I would have a minor issue with
8 that evidentiary issue with that, just because of knowing when
9 and where and how these documents were taken might affect the
10 outcome somewhat.

11 THE WITNESS: The documents that are listed ---

12 THE COURT: I don't think that was a question. Is that
13 your objection to these?

14 THE DEFENDANT: Yeah, that would be more my objection,
15 your Honor.

16 When you interviewed Chris Benson at Great American Escrow,
17 was he familiar with each of the files and the contents of
18 them -- all of the contents that were taken, or were these just
19 files that were under the care and custodian of Micki Thompson at
20 the time?

21 THE WITNESS: These were files that were listed as Great
22 American Escrow files. And when he reviewed those files, he was
23 then able to establish the authenticity of the documents we had
24 seized.

25 THE DEFENDANT: Because these were files that Micki

1 Thompson had under her control this entire time. He did not have
2 any knowledge of these files until you had came and did the
3 search warrant on them. And some of them you had actually taken
4 afterwards. I know that sounds a little bit confusing.

5 He didn't have control of these documents himself personally;
6 his employee, Micki Thompson, had control of these documents
7 under whatever system she had for filing and managing this, up
8 until you took notice of specific files that you wanted under
9 this investigation, and that's when he did his review upon these
10 documents and the files, right before he handed them over to you
11 and certified them?

12 THE WITNESS: I cannot speak to who had control over
13 what file at Great American Escrow. Micki Thompson was an
14 employee at Great American Escrow. Christopher Benson was in
15 charge of Great American Escrow.

16 THE DEFENDANT: Yes.

17 THE WITNESS: I would say he has control.

18 MS. VOGEL: Your Honor --

19 THE COURT: Mr. Poff, why don't you go ahead and make
20 your objection, and I will rule on the admissibility.

21 THE DEFENDANT: I object to some of this as a little bit
22 vague, and improper foundation on this, your Honor.

23 THE COURT: All right. I am going to admit them. If I
24 understand this, which I think I do, these are coming in under
25 803(6) and 902(11), both of which require a person familiar with

1 the recordkeeping practices of the business who can identify the
2 record at issue as having been made in the ordinary course of
3 business. That's what the certification that has been attached
4 to this that is applicable to these documents has been
5 represented to the court as attesting to, and it is coming
6 through the owner of the business. And, therefore, I am going to
7 admit them at this time.

8 MS. VOGEL: For the record, I would like to point out
9 these documents were part of the stipulation that was filed.

10 (143, 144, 145, 146, 148, 149, 150, 151 & 152 admitted.)

11 By Ms. Vogel:

12 Q Since it got brought up, let's talk a little bit more about
13 how you got the documents from Great American Escrow. Were there
14 a variety of means that you obtained the files from Great
15 American Escrow?

16 A Yes.

17 Q What was the first way that you got documents from Great
18 American Escrow?

19 A Through investigation by the Department of Financial
20 Institutions.

21 Q And how did they get the documents?

22 A They obtained the documents from an administrative
23 investigation.

24 Q So they actually got copies of documents directly from Great
25 American Escrow?

1 A Yes.

2 THE COURT: Counsel, you need to watch your leading.

3 By Ms. Vogel:

4 Q And how did they come into your custody?

5 A The Department of Financial Institutions provided us copies
6 of the files.

7 Q When was that, before or after the arrests?

8 A Before.

9 Q At the time of the arrest did you also obtain additional
10 documents from Great American Escrow?

11 A Yes, through search warrant.

12 THE DEFENDANT: I would object.

13 THE COURT: Basis?

14 THE DEFENDANT: The basis is that the documents that
15 were obtained prior to the search warrant were not properly
16 obtained.

17 THE COURT: She hasn't moved the admission of them. You
18 want to wait on your objection. If she is not moving the
19 admission of something, then you need to wait. What you just
20 objected to was her question, and her question was a proper one.

21 THE DEFENDANT: I apologize. I think it was a general
22 objection, because I don't know what documents those are. That's
23 what I was trying to establish before. Those documents obtained
24 were not obtained through a lawful search warrant. I would
25 object to those.

1 THE COURT: You may continue, counsel.

2 By Ms. Vogel:

3 Q Also at the time of the arrest, was there another method that
4 was used to obtain documents, in addition to seizing them
5 pursuant to the search warrant?

6 A Yes, the grand jury subpoena.

7 Q And who provided you documents in response to the grand jury
8 subpoena on behalf of Great American Escrow at the time of the
9 search warrant?

10 A Christopher Benson.

11 Q And following the time of the arrest, were there additional
12 grand jury subpoenas issued to Great American Escrow for
13 additional files?

14 A Yes.

15 Q And who provided those documents?

16 A Christopher Benson.

17 Q And in preparation for this case today, when did you and
18 Christopher Benson sit down and go through each document per his
19 ability to certify them? Was it within the last month?

20 A It would have been within the last month, closer to a month.

21 Q And the documents that you showed him, did they come from all
22 of the sources you just described?

23 A They did.

24 Q What are the documents that you obtained from Great American
25 Escrow that pertained to property number two on our chart?

1 A Are you referring to the exhibit numbers?

2 Q The exhibit numbers, yes.

3 A Exhibit 209, 210, 211, 212, 213, 214, 215, 216, 217, 237,
4 238, 240, 241.

5 MS. VOGEL: Move the admission of those exhibits as
6 business records.

7 THE COURT: Mr. Poff, now is your time to object to the
8 exhibits.

9 THE DEFENDANT: Yes. The objection I brought forward
10 earlier -- I made a stipulation on the business records. I was
11 under the assumption they were obtained via the search warrant.
12 I made the stipulation to expedite things along. If those were
13 businesses records obtained through DFI with the administrative
14 means they have to gain these records, I don't think that is
15 something that could be lawfully placed into evidence, sir. And
16 I don't know which documents that would be.

17 THE COURT: Why can't they be lawfully placed into
18 evidence?

19 THE DEFENDANT: It is my understanding they would have
20 to have some sort of lawful way of acquiring these documents,
21 other than just administrative -- I don't know the chain of
22 custody from Great American Escrow through DFI to the
23 investigator himself. I mean, are these people here that I would
24 be available to interview? That would be my only objection to
25 that, sir.

1 THE COURT: Are you asserting an objection on the basis
2 that the Department of Financial Institutions improperly seized
3 these documents?

4 THE DEFENDANT: I don't know if they did or not, sir.

5 THE COURT: Then I am going to overrule the objection.
6 They are admitted.

7 (209 - 217, 237, 238, 240, 241 admitted.)

8 By Ms. Vogel:

9 Q Can you give us the exhibit numbers, please, Agent --

10 MR. RATNER: Can we have those exhibit numbers again,
11 please? 209, 210, 211, 212, 213, 214, 215, 216, 217, and then I
12 got lost after that.

13 MS. VOGEL: 237, 238, 240, and 241. Is that correct,
14 Agent?

15 THE WITNESS: That's correct.

16 By Ms. Vogel:

17 Q Can you please give us the exhibit numbers of the documents
18 obtained from Great American Escrow and certified by the owner of
19 that business that pertain to property three?

20 A 318, 319, 320.

21 MS. VOGEL: Move the admission of 318, 319 and 320.

22 THE DEFENDANT: No objection, your Honor.

23 THE COURT: Those are admitted.

24 (318, 319 & 320 admitted.)

25 By Ms. Vogel:

1 Q Can you please give us the exhibit numbers of the documents
2 that were obtained from Great American Escrow that pertain to
3 property number four and certified by the owner?

4 A 409, 423, 424, 425, 426.

5 MS. VOGEL: Move the admission of those exhibits.

6 THE COURT: Any objection?

7 THE DEFENDANT: No objection, your Honor.

8 THE COURT: They are admitted.

9 (409, 423, 424, 425, 426 admitted.)

10 By Ms. Vogel:

11 Q Can you please give us the exhibit numbers, Agent, of the
12 documents obtained through Great American Escrow and certified by
13 the owner that pertain to property five?

14 A 521, 522, 523.

15 MS. VOGEL: Move the admission of 521, 522 and 523.

16 THE DEFENDANT: No objection, your Honor.

17 THE COURT: They are admitted.

18 (521, 522 & 523 admitted.)

19 By Ms. Vogel:

20 Q Can you please give us the exhibit numbers of the Great
21 American Escrow documents on our exhibit list, obtained and
22 certified, that pertain to property number six on our chart?

23 A 614, 629, 630, 631, 632, 634.

24 MS. VOGEL: Move the admission of those exhibits.

25 THE DEFENDANT: No objection, your Honor.

1 THE COURT: They are admitted.

2 (614, 629, 630, 631, 632 & 634 admitted.)

3 By Ms. Vogel:

4 Q Agent, can you please give us the exhibit numbers of the
5 Great American Escrow documents that you obtained and certified
6 by the owner that pertain to property number seven on our chart?

7 A Numbers 704, 706, 708, 709, 717, 718, 719, 721, 722, 723,
8 724, and 725.

9 MS. VOGEL: Move the admission of those exhibits.

10 THE DEFENDANT: No objection, your Honor.

11 THE COURT: They are admitted.

12 (704, 706, 708, 709, 717, 718, 719, 721, 722, 723, 724 &
13 725 admitted.)

14 By Ms. Vogel:

15 Q Agent, can you give us the exhibit numbers of the Great
16 American Escrow records obtained and certified that pertain to
17 property number eight on our chart?

18 A 812, 814, 817, 818, 819, 820, 821.

19 MS. VOGEL: Move the admission of those exhibits.

20 THE DEFENDANT: No objection, your Honor.

21 THE COURT: They are admitted.

22 (812, 814, 817, 818, 819, 820 & 821 admitted.)

23 By Ms. Vogel:

24 Q And finally, Agent, can you give us the exhibit numbers of
25 the Great American Escrow documents that are on our exhibit list

1 that are listed as pertaining to some of the money laundering
2 counts?

3 A 922, 923, 928 and 929.

4 Q And, again, were these certified with Chris Benson as being
5 business records under the rule?

6 A They were.

7 MS. VOGEL: Move the admission of 922, 923, 928 and 929.

8 THE DEFENDANT: No objection, your Honor.

9 THE COURT: They are admitted.

10 (922, 923, 928 & 929 admitted.)

11 By Ms. Vogel:

12 Q In addition to Great American Escrow business records, did
13 you also obtain records from other escrow companies that pertain
14 to some of the transactions?

15 A Yes.

16 Q And what is the first of those companies?

17 A Evergreen.

18 Q Is that Evergreen Escrow Company?

19 A Yes.

20 Q And, generally speaking, what kind of documents did you
21 obtain?

22 A Seller financing agreements.

23 Q And did you also obtain a written certification from a
24 qualified custodian of records at Evergreen Escrow regarding
25 those documents?

1 A Yes.

2 Q And what are the exhibit numbers of those documents?

3 A 118 and 159.

4 MS. VOGEL: Move the admission of 118 and 159.

5 THE DEFENDANT: No objection, your Honor.

6 THE COURT: Admitted.

7 (118 & 159 admitted.)

8 By Ms. Vogel:

9 Q And was there another escrow company from whom you obtained
10 certified business records as well?

11 A Stewart Title.

12 Q And what is the exhibit number of that exhibit?

13 A 705.

14 Q And did you also obtain a written 902 certification from a
15 qualified custodian at Stewart Title?

16 A Yes.

17 Q Generally speaking, what kind of document is that?

18 A Closing instructions from Great American Escrow.

19 MS. VOGEL: Move the admission of Exhibit 705.

20 THE DEFENDANT: No objection, your Honor.

21 THE COURT: Admitted.

22 (705 admitted.)

23 By Ms. Vogel:

24 Q Now, Agent, I want to now ask you about lender records.

25 Specifically as to property number one on our chart, from what

1 lender did you obtain records pertaining to the loans taken out
2 for that property?

3 A Ownit Mortgage.

4 Q Is that Ownit Mortgage Solutions?

5 A Yes.

6 Q That's the full name?

7 A Yes.

8 Q Does Ownit Mortgage Solutions exist any longer?

9 A No.

10 Q From whom did you obtain the records on behalf of Ownit
11 Mortgage Solutions?

12 A The attorney who was responsible for the files.

13 Q Do you know what happened to Ownit?

14 A As far as I know, they were in bankruptcy.

15 Q And do you know what this attorney's authority was to have
16 and provide the documents?

17 A To administer the files.

18 Q Were they appointed by the court?

19 A Yes.

20 Q And having obtained those records, were you able to actually
21 track down a former employee of Ownit Mortgage Solutions in
22 person?

23 A Yes.

24 Q And what did you do with that -- Who is that person?

25 A That individual is John Darcy.

1 Q And do you know exactly what his position was at Ownit
2 Mortgage Solutions?

3 A He was a manager at Ownit.

4 Q And in preparation for this trial, did you and Mr. Darcy sit
5 down and review the documents that we had obtained from the
6 attorney on behalf of the now liquidated owner?

7 A Yes.

8 Q And what was the outcome of that session? Was Mr. Darcy able
9 to certify that these were Ownit Mortgage Solution's official
10 business records?

11 A Mr. Darcy was able to certify they were official Ownit
12 documents.

13 Q And did he provide a written 902 certification?

14 A Yes.

15 Q Was that written 902 certification provided to the defendant?

16 A Yes.

17 Q What are the exhibit numbers of the Ownit Mortgage Solution
18 business records that were obtained as part of this investigation
19 that pertain to property number one, and for which the former
20 supervisor/manager at Ownit Mortgage Solutions provided written
21 certification as business records?

22 A Exhibit Numbers 113, 114, 115, 116, 119, 120, 121, 122, 123,
23 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136,
24 137, 138, 139, 140, 141, 142.

25 Q Generally speaking, what types of documents are those?

1 A Real estate documents, HUD-1s, loan applications.

2 MS. VOGEL: Move the admission of the exhibits just
3 recited by the defendant -- by the agent, excuse me, pursuant to
4 the business rule and the parties' earlier stipulation.

5 THE COURT: Any objection?

6 THE DEFENDANT: On two of them, your Honor. 141, it
7 says the source is from Countrywide; and on Number 129 it says it
8 is an e-mail, reportedly from myself. I would object to that.

9 THE COURT: I will sustain on the Countrywide, since I
10 haven't heard that has been the subject of this. I would like to
11 see the certification in regards to the e-mail. Tell me which
12 exhibit number it is.

13 MS. VOGEL: The exhibit the defendant just mentioned, I
14 believe is Exhibit Number 129. The certification itself is
15 downstairs. Since we thought we had a stipulation, we didn't
16 bring everything up. My assistant is going to get it.

17 THE COURT: Why don't you move on, and we will deal with
18 it before close of business.

19 By Ms. Vogel:

20 Q Agent, when you said "141" earlier, was that in error?

21 A No. I'm sorry, it was.

22 Q Was Exhibit 141 an Ownit business record?

23 A No.

24 Q So setting aside Exhibit 129 for a moment, and taking 141 out
25 of the mix, are the other exhibits that you just recited here the

1 business records pertaining to property number one that you
2 obtained from Ownit Mortgage Solutions?

3 A They are.

4 THE DEFENDANT: No objection on the other exhibits.

5 THE COURT: With the exception of those two exhibits,
6 the remainder are admitted.

7 (113 - 116, 119 - 127, 128, 130 - 140 & 142 admitted.)

8 By Ms. Vogel:

9 Q Also pertaining to property number one, did you obtain
10 documents from Countrywide?

11 A Yes.

12 Q And do you know the relationship between Countrywide and
13 Ownit as it pertains to property number one?

14 A Countrywide obtained Ownit's loan business after Ownit
15 ceased.

16 Q Is it your understanding that Countrywide got some of their
17 documents?

18 A Yes.

19 Q And what is your understanding of how that happened?

20 A Through Ownit's bankruptcy, and then Countrywide took over
21 the loans.

22 Q And how many documents pertaining to property number one are
23 on our exhibit list from Countrywide?

24 A One.

25 Q And what is the exhibit number of that document?

1 A 141.

2 Q Did you also obtain a written business certification from
3 Countrywide when they provided us with that file?

4 A Yes.

5 Q And did that written certification certify that these
6 documents were kept in the ordinary course of business as
7 required?

8 A Yes.

9 MS. VOGEL: Move the admission of 141.

10 THE DEFENDANT: No objection.

11 THE COURT: 141 is now admitted.

12 (141 admitted.)

13 By Ms. Vogel:

14 Q Did you also obtain records from Ownit Mortgage Solutions
15 that pertain to property number two?

16 A Yes.

17 Q And can you tell us the exhibit numbers of those documents?

18 A Exhibit Numbers 208, 218, 219, 220, 221, 222, 223, 224, 225,
19 226, 227, 228, 229, 230, 231, 232, 233.

20 MS. VOGEL: Move the admission of those exhibits as
21 business records.

22 THE DEFENDANT: The only one I am objecting to is 223,
23 your Honor.

24 THE COURT: The basis of the objection?

25 THE DEFENDANT: I am looking at the other exhibit that I

1 objected to as well. This is claimed to be a purported e-mail
2 from the prosecution, claiming to be from myself, but it says in
3 the header this is actually from an e-mail account from Alexis
4 Ikilikyan.

5 THE COURT: Counsel, why don't we establish, we will go
6 back and do this on 129 and this exhibit, where they came from
7 and if there is certification.

8 Mr. Poff, I am probably going to overrule your objection.
9 The proper way to attack this is through cross-examination, what
10 these are. Right now they are being admitted because they are
11 coming in as a business record. We need to establish they came
12 out of that file of that particular company, and they maintained
13 these as part of the regular course of business to meet the 803
14 standards. Let's do that in particular with those e-mails.

15 (208, 218 - 233 admitted.)

16 THE DEFENDANT: Thank you, sir.

17 By Ms. Vogel:

18 Q Agent, for all of the exhibit numbers that you have listed
19 here so far as coming from Ownit Mortgage, with the exception of
20 the one that was in error, how did we obtain those documents, do
21 you know?

22 A Through subpoena.

23 Q And was that subpoena directed to the person you mentioned
24 earlier, the attorney of the trust?

25 A Yes.

1 Q And how were those documents returned back to the United
2 States government, in individual documents or in a batch?

3 A In a batch of documents.

4 Q Do you know whether those were electronic or paper?

5 A Those are paper documents.

6 Q Are you sure or do you know?

7 A I believe they are paper documents.

8 Q When you obtained the documents and you tracked down the
9 former owner -- the former employee of Ownit Mortgage Solutions,
10 what did you do with him in order to allow him to certify those
11 documents as Ownit business records?

12 A Reviewed the documents with him page by page.

13 Q And did you provide him with just some of the documents or
14 the entire batch that were obtained from Ownit?

15 A The complete files.

16 Q And were you present when he reviewed many of those
17 documents?

18 A Yes.

19 Q And how long did he take, if you know, to go through those
20 documents?

21 A The time that I spent with him was a couple of hours.

22 Q And can you tell us, in that file of documents that we
23 obtained from Ownit, what types of documents were in there?
24 Specifically I want to know, was it just loan documents or was it
25 all kinds of correspondence that came into that file as the loan

1 application progressed?

2 A Quite a few documents relating to the initial loan request,
3 and then follow-up documents requesting additional documents,
4 e-mail correspondences and other correspondences between Ownit
5 and the individual making the request. And then as they went to
6 process the actual loan application. And other Ownit related
7 documents related to that loan, such as verification sheets.

8 Q And while you couldn't be expected to know who drafted the
9 various documents in the Ownit business records, was it apparent
10 to you upon your review whether all of these documents were
11 drafted by Ownit or drafted by other sources?

12 A It appeared the documents were Ownit documents, but also
13 documents sent to them from other sources.

14 Q What were some of those other sources, if you know?

15 A They were e-mail correspondences and fax correspondences
16 between individuals applying for the loan and the loan
17 representatives from Ownit.

18 Q And the two e-mails the defendant has raised an objection to
19 here, having reviewed those documents in the context of all the
20 paperwork received from Ownit, do you believe that those were
21 documents that were submitted to Ownit based on their contents as
22 part of the loan application process?

23 A Yes.

24 THE COURT: Counsel, may I see the certification,
25 please?

1 MS. VOGEL: May I approach, your Honor?

2 THE COURT: Yes. Mr. Poff, why don't you state your
3 objection to 129 and whatever the other number is.

4 MS. VOGEL: I believe it is 223, your Honor.

5 THE COURT: 223. And then I will rule.

6 THE DEFENDANT: Really my objection comes from -- It is
7 an e-mail purported to be coming from myself, but it is coming
8 from -- on the very header of the e-mail it says it is an account
9 that was shared. Basically it says it is Haikanush Ikilikyan's
10 e-mail account. If you are saying that is something I have to
11 rebut in cross-examination, if I am just allowing it to enter
12 into the record now as evidence coming from the lender, I have no
13 objection with that aspect of it, your Honor.

14 THE COURT: When you cross-examine whoever it is you
15 want to cross-examine on that subject, you bring that exhibit up
16 and say what about that particular aspect of it. Right now we
17 are establishing that it is a business record.

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: I will overrule the objection and admit
20 those two exhibits.

21 (129 & 223 admitted.)

22 By Ms. Vogel:

23 Q Agent, from what lender did you obtain business records
24 pertaining to property number three on the chart?

25 A Ownit Mortgage.

1 Q Is that the same Ownit Mortgage Solutions we talked about a
2 minute ago?

3 A Yes.

4 Q Were you also able to obtain written business certifications
5 for those records?

6 A Yes.

7 Q What are the exhibit numbers for the Ownit Mortgage lender
8 records that pertain to property number three, that are on our
9 exhibit list?

10 A 308, 309, 310, 311, 312, 313, 314, 315, 316 and 317.

11 MS. VOGEL: Move the admission of those exhibits.

12 THE DEFENDANT: No objection, your Honor.

13 THE COURT: They are admitted.

14 (308 - 317 admitted.)

15 By Ms. Vogel:

16 Q From what lender did you obtain business records pertaining
17 to property number four on our chart?

18 A Ownit Mortgage Solutions.

19 Q Again, did you obtain the written business records
20 certification from a representative at Ownit Mortgage that would
21 cover the exhibits on our exhibit list for that property?

22 A Yes.

23 Q What are those exhibit numbers, please?

24 A 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422.

25 MS. VOGEL: Move the admission of those exhibits as

1 business records.

2 THE DEFENDANT: No objection, your Honor.

3 THE COURT: They are admitted.

4 (412 - 422 admitted.)

5 By Ms. Vogel:

6 Q From what lender did you obtain business records that related
7 to the loans for property number five on our chart?

8 A Ownit Mortgage Solutions.

9 Q And, again, did you have the same business records
10 certification that covered these exhibits?

11 A Yes.

12 Q What are those exhibit numbers, please?

13 A 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518,
14 519 and 520.

15 MS. VOGEL: Move the admission of those exhibits.

16 THE DEFENDANT: No objection, your Honor.

17 THE COURT: They are admitted.

18 (507 - 520 admitted.)

19 By Ms. Vogel:

20 Q As to property six on the chart, Agent, from what lender or
21 lenders did you obtain records related to the loan on that
22 property?

23 A National City Bank and Aurora Home Servicing.

24 Q Let's talk first about Aurora Home Servicing. If you know,
25 what is the connection between Aurora Home Servicing and the

1 lender that originally lent for the mortgage for property number
2 six?

3 A Aurora Home Servicing took over the loan from Green Point.

4 Q Is it your understanding that they obtained their documents
5 directly from them?

6 A Yes.

7 Q Did Aurora Home Servicing, when it provided documents, also
8 provide a written certification of business records pursuant to
9 Rule 902 that covers the exhibit that we are seeking to admit
10 here?

11 A Yes.

12 Q And what are the exhibit numbers of the documents pertaining
13 to property six that were obtained from Aurora Home Servicing?

14 A 621, 623. That's all.

15 Q Just those two?

16 A Yes.

17 MS. VOGEL: Move the admission of 621 and 623.

18 THE DEFENDANT: No objection, your Honor.

19 THE COURT: They are admitted.

20 (621 & 623 admitted.)

21 By Ms. Vogel:

22 Q You said there was a second lender. What was that?

23 A National City Bank.

24 Q Were you also able to obtain a written business record
25 certification from the custodian of records from National City

1 Bank that covers each of the National City Bank records listed on
2 our exhibit list?

3 A Yes.

4 Q And what are the exhibit numbers of the lender documents
5 pertaining to property number six that you obtained from National
6 City Bank?

7 A 615, 622, 624, 625, 626, 627, 628, 643, 644, 645.

8 MS. VOGEL: Move the admission of those records.

9 THE DEFENDANT: No objection, your Honor.

10 THE COURT: They are admitted.

11 (615, 622, 624 - 628, 643 - 645 admitted.)

12 By Ms. Vogel:

13 Q As to property number seven on our chart, did you obtain any
14 lender documents that are on our exhibit list for that property?

15 A One document.

16 Q And what is that exhibit number?

17 A 720.

18 Q And from whom did you obtain that document?

19 A Gulf Savings Bank.

20 Q Was that document accompanied by a written certification that
21 this was a business record at Gulf Savings Bank?

22 A Yes.

23 MS. VOGEL: Move the admission of Exhibit 720.

24 THE DEFENDANT: No objection, your Honor.

25 THE COURT: 720 is admitted.

1 (720 admitted.)

2 By Ms. Vogel:

3 Q And, finally, from what company did you obtain lender records
4 pertaining to the loan extended to purchase property number eight
5 on our chart?

6 A Just Mortgage.

7 Q And did you get those documents directly from Just Mortgage?

8 A Yes.

9 Q And were they accompanied by a written business record
10 certification from a custodian at Just Mortgage that these were
11 business records?

12 A Yes.

13 Q What are the exhibit numbers of the Just Mortgage records on
14 our exhibit list?

15 A 809, 810, 811 and 813.

16 MS. VOGEL: Move the admission of 809, 810, 811 and 813.

17 THE DEFENDANT: No objections, your Honor.

18 THE COURT: They are admitted.

19 (809 - 811, 813 admitted.)

20 By Ms. Vogel:

21 Q What real estate companies did you obtain records from that
22 also would be introduced in this process?

23 A John L. Scott Realty and Prudential.

24 Q Let's talk about John L. Scott first. Did you obtain from a
25 custodian or representative of John L. Scott Real Estate a 902

1 certification as to all the records obtained from them?

2 A Yes.

3 Q And what are the exhibit numbers of those records?

4 A 610, 611, 612.

5 MS. VOGEL: Move the admission of 610, 611 and 612.

6 THE DEFENDANT: No objection, your Honor. Can we go
7 back to Item Number 813? I don't have any objection to it. It
8 just doesn't list a source. I would like to know the source of
9 that.

10 By Ms. Vogel:

11 Q Agent, where did Exhibit Number 813 come from?

12 A Just Mortgage.

13 THE DEFENDANT: Other than that, I have no objection.
14 It just doesn't say it on the chart is all.

15 THE COURT: There was no objection to the exhibits, so
16 those are admitted.

17 (610 - 612 admitted.)

18 MS. VOGEL: Going back to 610, 611 and 612, I would move
19 the admission of those documents as John L. Scott business
20 records.

21 THE DEFENDANT: No objections.

22 THE COURT: Those were admitted.

23 MS. VOGEL: Thank you, your Honor.

24 By Ms. Vogel:

25 Q What other realtor or real estate agency did you obtain

1 records from?

2 A Prudential Realty.

3 Q And were those also accompanied by a written 902 business
4 record certification?

5 A Yes.

6 Q And what were the exhibit numbers and documents obtained from
7 Prudential?

8 A 815 and 816.

9 MS. VOGEL: Move the admission of 815 and 816.

10 THE DEFENDANT: No objection, your Honor.

11 THE COURT: They are admitted.

12 (815 & 816 admitted.)

13 By Ms. Vogel:

14 Q Did we cover all the lender records and all the realtor
15 records? Did you also obtain records as part of this
16 investigation from banks?

17 A Yes.

18 Q Now, were all of those records, when they were provided to
19 the government, accompanied by Rule 902 certificates?

20 A Yes.

21 Q And have you worked with financial auditor Becky Carnell to
22 confirm that each of the documents we have obtained from the
23 banks as part of this investigation was covered by a written 902
24 business certification?

25 A I have.

1 Q What are the banks that you obtained records from as part of
2 this investigation that we intend to introduce in this trial?

3 A Key Bank, Bank of America, LaSalle Bank, and then
4 J.P. Morgan Chase, formerly Washington Mutual, as well as the
5 Federal Reserve.

6 Q Let's start with Key Bank. What are the exhibit numbers of
7 the documents obtained -- the records obtained from Key Bank that
8 we intend -- that we have listed on our exhibit list?

9 A 915, 920, 926, 931 and 933.

10 MS. VOGEL: Move the admission of 915, 920, 926, 931 and
11 933.

12 THE DEFENDANT: No objections, your Honor.

13 THE COURT: They are admitted.

14 (915, 920, 926, 931 & 933 admitted.)

15 By Ms. Vogel:

16 Q What are the exhibit numbers of the business records obtained
17 from Bank of America and covered by the written business records
18 certifications obtained from Bank of America that are on our
19 exhibit list?

20 A 24, 25 and 913.

21 MS. VOGEL: Move the admission of those three exhibits.

22 THE DEFENDANT: No objections, your Honor.

23 THE COURT: 24, 25 and 913 are admitted.

24 (24, 25 & 913 admitted.)

25 By Ms. Vogel:

1 Q What are the exhibit numbers of any exhibits from LaSalle
2 Bank that were obtained as part of this -- as certified business
3 records that are on our exhibit list?

4 A Exhibit Number 912.

5 Q Just the one?

6 A Yes.

7 MS. VOGEL: Move the admission of Exhibit 912.

8 THE DEFENDANT: No objections, your Honor.

9 THE COURT: 912 is admitted.

10 (912 admitted.)

11 By Ms. Vogel:

12 Q What are the exhibit numbers of the business records obtained
13 from Washington Mutual or J.P. Morgan Chase, as it is now known,
14 and accompanied by a written business record certification that
15 are on our exhibit list?

16 A Exhibit Numbers 3, 4, 5, 6, 242, 321 and 322.

17 MS. VOGEL: Move the admission of those exhibits.

18 THE DEFENDANT: No objections, your Honor.

19 THE COURT: They are admitted.

20 (3 - 6, 242, 321 & 322 admitted.)

21 By Ms. Vogel:

22 Q Finally, what are the exhibit numbers of the business records
23 from the Federal Reserve Bank that you obtained in connection
24 with this investigation, and that were accompanied by a written
25 business record certification?

1 A Exhibits 161, 162, 163, 239, 243, 244, 323, 427, 525, 526,
2 646, 648, 823, 824 and 647.

3 MS. VOGEL: Move the admission of those exhibits.

4 THE COURT: Are they covered by your stipulation as to
5 authenticity, counsel?

6 MS. VOGEL: I'm sorry?

7 THE COURT: Are they covered by your stipulation
8 regarding authenticity?

9 MS. VOGEL: Yes.

10 THE COURT: Mr. Poff, any objection?

11 THE DEFENDANT: No objection, your Honor.

12 THE COURT: Then they are admitted.

13 (161, 162, 163, 239, 243, 244, 323, 427, 525, 526, 646,
14 648, 823, 824 and 647 admitted.)

15 By Ms. Vogel:

16 Q According to my notes we are down to one last business record
17 on our exhibit list; is that correct?

18 A That's correct.

19 Q And where was that from?

20 A That was from a gun shop in Federal Way called Federal Way
21 Discount Guns.

22 Q Was that also accompanied by a written certification from the
23 owner of Federal Way Discount Guns, or the manager, certifying
24 that these were records kept in the ordinary course of business?

25 A Yes.

1 Q What is that exhibit number?

2 A Exhibit 20.

3 MS. VOGEL: Move the admission of Exhibit 20.

4 THE DEFENDANT: No objection, your Honor.

5 THE COURT: 20 is admitted.

6 (20 admitted.)

7 MS. VOGEL: To clarify, your Honor, counsel has raised a
8 question as to whether we admitted Exhibit 423. According to my
9 notes, we did. His notes say we didn't. I want to make sure.

10 THE COURT: Madam Clerk, 423?

11 THE CLERK: Yes.

12 THE COURT: Yes.

13 MS. VOGEL: Thank you.

14 By Ms. Vogel:

15 Q Agent Burtt, based on your review of all of these records
16 that have now been admitted, and your preparation of the chart
17 here, this big chart in front of us, Exhibit 1, does all of the
18 information on this chart come from the exhibits that we have
19 admitted here today?

20 A Yes, it does.

21 MS. VOGEL: Move the admission of Exhibit 1, the chart.

22 THE DEFENDANT: No objection, your Honor.

23 MS. VOGEL: With the exception of the plea and
24 indictment.

25 THE COURT: Mr. Poff, I will need you to move your

1 microphone closer to you.

2 THE DEFENDANT: Is this better?

3 THE COURT: That's great.

4 THE DEFENDANT: No objection.

5 THE COURT: Exhibit 1 is admitted.

6 (1 admitted.)

7 By Ms. Vogel:

8 Q Agent, also as part of your investigation, did you obtain
9 photographs of each of the eight properties that are on
10 Exhibit 1?

11 A Yes.

12 Q How did you obtain those photographs?

13 A Either by physically driving out and taking photographs or
14 through a web-based search.

15 Q Can you look, please, at Exhibit 100? Can you tell us what
16 that property is?

17 A That is listed as transaction number one, the Puyallup
18 duplexes.

19 Q Is this a photograph of one of the three duplexes listed in
20 line number one of our chart?

21 A Yes.

22 MS. VOGEL: Move the admission of Exhibit Number 100.

23 THE DEFENDANT: My only stipulation on the photos was --
24 would be that all these photos should be current photos, if they
25 are to reflect their current condition.

1 THE COURT: When was the photograph taken?

2 THE DEFENDANT: Let me back up. The condition when they
3 were bought. I apologize.

4 By Ms. Vogel:

5 Q Agent, when did you take this photograph, do you know?

6 A This was approximately six to seven months ago.

7 MS. VOGEL: Move the admission of Exhibit 100.

8 THE COURT: I believe that Mr. Poff's objection goes to
9 weight of the evidence, and is an appropriate topic for
10 cross-examination. I will admit the exhibit.

11 (100 admitted.)

12 By Ms. Vogel:

13 Q Would you look, please, at Exhibit 200? Can you tell us what
14 address this is a photograph of?

15 A It is 3141 350th Avenue South.

16 Q Is that property number two on Exhibit 1, the big chart?

17 A It is.

18 Q And when did you take this photograph?

19 A Approximately two and a half, three weeks ago.

20 MS. VOGEL: Move the admission of Exhibit 200.

21 THE COURT: Mr. Poff, same objection?

22 THE DEFENDANT: Yeah. I object to the sign in the
23 photo, your Honor, in addition to the other objection on the
24 other property, sir.

25 THE COURT: All right. Overruled. I will admit 200.

1 (200 admitted.)

2 MS. VOGEL: Your Honor, just so I am clear, I am not
3 sure I understand the other objection. Is that simply that the
4 photograph was taken after --

5 THE COURT: That it does not -- potentially does not
6 accurately reflect the value of the property, the status or
7 condition of the property at the time of the
8 acquisition/transaction.

9 MS. VOGEL: Did the court admit 200?

10 THE COURT: I did.

11 By Ms. Vogel:

12 Q Thank you. Please look at Exhibit 300. Agent, can you tell
13 us what property this is a photograph of?

14 A That is 13841 Southeast 180th, line number three on the
15 chart.

16 Q In what city?

17 A In Renton.

18 Q When did you take this photograph?

19 A This is actually a web-based photograph.

20 Q Do you know when it was taken?

21 A I don't.

22 MS. VOGEL: Move the admission of Exhibit 300.

23 THE DEFENDANT: Same objection, your Honor.

24 THE COURT: We have no idea when this photograph was
25 taken; is that correct?

1 THE DEFENDANT: That's correct.

2 THE COURT: I will sustain the objection. Whoever
3 painted the door should be taken out and shot.

4 MS. VOGEL: Your Honor, may I argue that?

5 THE COURT: Go ahead.

6 MS. VOGEL: We are simply offering these exhibits so
7 that witnesses can -- may or may not identify the property, so we
8 have a visual to go with it. We are not making any
9 representations on the conditions of the property.

10 THE COURT: Why don't you offer it as an illustrative
11 exhibit then, and I will permit you to use it?

12 MS. VOGEL: Thank you, your Honor.

13 By Ms. Vogel:

14 Q Can you look at Exhibit 400, please? Can you tell us what is
15 the address of the house at this photograph?

16 A 20613 11th Avenue South.

17 Q When did you take this photograph?

18 A Two and a half, three weeks ago.

19 MS. VOGEL: Move the admission of Exhibit 400.

20 THE DEFENDANT: Same objection, your Honor.

21 THE COURT: I will overrule the objection, and admit the
22 exhibit.

23 (400 admitted.)

24 By Ms. Vogel:

25 Q Can you look at Exhibit 500, please? Can you tell us the

1 address of the property located -- shown in this photo?

2 A 14062 Yelm Avenue Southwest in Yelm.

3 Q Is that the property listed on line 5 of our chart?

4 A It is.

5 Q When was this photograph taken, if you know?

6 A Approximately six to seven months ago.

7 MS. VOGEL: Move the admission of Exhibit 500.

8 THE DEFENDANT: Same objection, your Honor.

9 THE COURT: Counsel, when did the Sopranos move out? I
10 will overrule the objection and admit the exhibit.

11 (500 admitted.)

12 By Ms. Vogel:

13 Q Would you look, please, at Exhibit 600? Can you tell us the
14 address of the property shown in this photograph?

15 A 9488 199th Avenue South.

16 Q In what city?

17 A Issaquah.

18 Q And is that the property listed on Count 6 of Exhibit 1?

19 A Yes.

20 Q How long ago was this photograph taken, if you know?

21 A Approximately six to seven months.

22 Q From today -- before today?

23 A Yes.

24 MS. VOGEL: Move the admission of Exhibit 600.

25 THE DEFENDANT: Same objection, your Honor.

1 THE COURT: The objection is overruled. The exhibit is
2 admitted.

3 (600 admitted.)

4 By Ms. Vogel:

5 Q Can you look at Exhibit 700, please? Do you know the address
6 of the home depicted in this photograph?

7 A 703 South Puget Sound Avenue.

8 Q In what city?

9 A Tacoma.

10 Q And is that the property listed on line 7 of our chart,
11 Exhibit 1?

12 A Yes.

13 Q And where did this photograph come from?

14 A It was a web-based search.

15 Q Do you know when this photograph was taken?

16 A I do not.

17 Q Have you driven by this property and looked at it personally?

18 A I have not personally. Other agents have.

19 MS. VOGEL: Move the admission of Exhibit 700.

20 THE DEFENDANT: Same objection as before.

21 THE COURT: I will admit it for illustrative purposes
22 only, not as substantive evidence.

23 (700 Illustrative admitted.)

24 By Ms. Vogel:

25 Q And can you look at Exhibit 800, please? Can you tell us the

1 address of the home depicted in this this photograph?

2 A 27149 8th Avenue South in Des Moines.

3 Q Is that the property listed on line 8 of Exhibit 1?

4 A Yes.

5 Q And, if you know, when was this photograph taken?

6 A Approximately two to three years ago.

7 MS. VOGEL: Move the admission of Exhibit 800.

8 THE DEFENDANT: Same objection again, your Honor.

9 THE COURT: I will admit the exhibit.

10 (800 admitted.)

11 By Ms. Vogel:

12 Q Agent Burtt, for each of the properties listed on Exhibit 1
13 that were purchased in the name of Ikilikyan, did you find among
14 the certified public records any corresponding deeds executed by
15 the defendant, Mr. Poff?

16 A Yes.

17 Q And what is the nature of those deeds?

18 A Quitclaim deeds.

19 Q From whom to whom?

20 A Mr. Poff to Ms. Ikilikyan.

21 Q And are those listed as Exhibit 105?

22 A Yes.

23 Q This is one of the documents I believe was just admitted as a
24 public record. What is this?

25 A That is the quitclaim deed showing Mr. Poff quitclaiming his

1 interest in the property to Ms. Ikilikyan.

2 Q And for which property does this quitclaim deed pertain?

3 A Property number one on our chart.

4 Q One of the duplexes?

5 A Yes.

6 Q Can you look at Exhibit 108? What is this?

7 A It is also a quitclaim deed.

8 Q From whom to whom?

9 A From Mr. Poff to Ms. Ikilikyan.

10 Q And to which property does this relate?

11 A Also property number one on our chart, one of the duplexes.

12 Q And can you look, please, at Exhibit 111? What is this?

13 A It is a quitclaim deed from Mr. Poff to Ms. Ikilikyan.

14 Q For which property?

15 A For one of the duplexes on the chart for number one.

16 Q And what is the date that this quitclaim deed was executed?

17 A April 16th, 2005.

18 Q Actually, if you look at the top part where you see it was
19 recorded, can you see a recording date with Pierce County?

20 A April 28th, 2005.

21 Q Is that the same for all three of the documents or do you
22 know?

23 A I would have to look.

24 Q Let's look back at Exhibit 108. What was the date it was
25 recorded on?

1 A April 28th, 2005.

2 Q And let's look back at Exhibit 105.

3 A Also April 28, 2005.

4 Q And what was the closing date that was recorded for the
5 properties on line 1 of our chart, Exhibit 1, for those duplex
6 properties?

7 A April 25th, 2005.

8 Q And can you look, please, at Exhibit 505? Also a public
9 record just admitted.

10 A That is a quitclaim deed.

11 Q From whom to whom?

12 A From Mr. Poff to Ms. Ikilikyan.

13 Q And what property does Exhibit 505 pertain to?

14 A It pertains to the Yelm property.

15 Q Is that line 5 on our chart?

16 A It is.

17 Q Can you look, please, at Exhibit 605? What is this?

18 A It is also a quitclaim deed from Mr. Poff to Ms. Ikilikyan.

19 Q And which property -- in which property's records did you
20 find this deed?

21 A In the 9488 Issaquah property.

22 Q Is that property number six on our chart?

23 A Yes.

24 Q And can you look finally at Exhibit 703? What is this?

25 A This is also a quitclaim deed from Mr. Poff to Ms. Ikilikyan.

1 Q And for which property does this -- was this record found
2 then?

3 A 7038 South Puget Sound.

4 Q Is that property seven on our chart?

5 A Yes.

6 Q And were all of these quitclaim deeds executed shortly at or
7 shortly after the time of the statutory warranty deed conveying
8 the property to Ms. Ikilikyan from the seller?

9 A Yes.

10 Q Can you look, please, at Exhibit 633 --

11 THE COURT: Counsel, are we moving on to a different
12 topic?

13 MS. VOGEL: I only have one question on it and then we
14 are done with this witness.

15 THE COURT: All right.

16 By Ms. Vogel:

17 Q This has not been admitted. Can you tell us what this
18 document is?

19 A This is a document provided to me from the sellers of 9488
20 199th Avenue Southeast.

21 Q And that is line 6 on the chart?

22 A Yes.

23 Q What was the seller's name that provided this to you?

24 A Joyce Hsu.

25 Q Can you spell that last name?

1 A H-S-U.

2 Q When did she provide you with this document?

3 A When I interviewed her probably about a year and a half ago.

4 Q And based on the information that she told you, did you
5 attempt to subpoena her to appear here in trial today?

6 A I did.

7 Q And were you successful?

8 A No.

9 Q Why not?

10 A Ms. Hsu is in Taiwan.

11 Q What is your understanding of how she got this document?

12 A She obtained this document --

13 THE DEFENDANT: Objection. Hearsay.

14 By Ms. Vogel:

15 Q What were the other documents that she gave to you that were
16 surrounded by this document?

17 A She provided other documents relating to her sale of 9488
18 199th Southeast to Ms. Ikilikyan.

19 Q What were specifically some of the other documents provided
20 along with this document?

21 A I believe she also -- You know, I just don't remember.

22 MS. VOGEL: Your Honor, I am moving the admission of
23 Exhibit 633, which I am not offering for the truth. I am simply
24 offering it as a document provided to the agent by the seller of
25 this property.

1 THE DEFENDANT: I object for foundation, your Honor.

2 THE COURT: I will sustain the objection.

3 MS. VOGEL: May I have a moment?

4 THE DEFENDANT: I have a question for the court, your
5 Honor.

6 THE COURT: Hold on.

7 MS. VOGEL: In order to address the evidentiary issue,
8 the court's ruling right now, it would be helpful if we knew the
9 basis for the sustaining of the foundational objection. Since we
10 are not offering this for the truth, it is in order to offer more
11 information or a law, we need to know why it was not admitted.

12 THE COURT: Because it doesn't come in under the rules
13 of evidence. There is no understanding of what it is. You don't
14 have a witness who can authenticate it. If you say it is not
15 coming in for the truth, then why are we offering it?

16 MS. VOGEL: So the relevance. Thank you. No further
17 questions.

18 THE COURT: All right. Mr. Poff, we usually break at
19 4:30, so rather than get you up for two minutes, we will let you
20 organize your thoughts and pick it up tomorrow morning at
21 9:00 a.m. Agent, you can step down.

22 Counsel, let me explore with you one matter, since I'm sure
23 you are all intimately familiar with Federal Rule of Criminal
24 Procedure 23, which is entitled "jury or nonjury trial." And in
25 particular, 23(c) states: "In a case tried without a jury," that

1 would be us, "the court must find the defendant guilty or not
2 guilty." I thought that's what they paid us for. But it then
3 goes on to say: "If a party requests before the finding of
4 guilty or not guilty, the court must state its specific findings
5 of fact in open court or in a written decision or opinion."

6 I read that as saying someone has to ask. And I don't want
7 to sneak that one up at the end of the trial and blurt out
8 something, saving you all hundreds of hours of work, but if
9 someone wants it, preventing them the opportunity to ask.

10 So here is your homework for the evening. When we resume
11 tomorrow morning I am going to ask you if anyone wants to have
12 written findings and conclusions, so that question doesn't just
13 spring up at some point in the proceeding, and that you have
14 given it some thought.

15 In order to entice you to do this or not do this, I will tell
16 you that I would expect the parties to submit written findings
17 and conclusions, so that it will add to your burden in this.
18 Were you having a jury do this, there wouldn't be written
19 findings and conclusions, they would simply come back with a
20 verdict form that would say guilty or not guilty by count in the
21 superseding indictment, I think is what we are up to this time.
22 So it is up to you. You have that right if you want to excise
23 it. I assure you that it will add to your burden in doing so.
24 It is not something you need to agree on. Either party has the
25 choice.

1 In case someone does want to do it, I wanted to alert you to
2 it early so that you can keep your notes and whatever as we go
3 along.

4 Counsel, anything else that the court should take up at this
5 time? Ms. Vogel.

6 MS. VOGEL: Yes, your Honor. Back on the subject of the
7 defense handwriting expert. Today when we came to court at 1:30
8 we were given a one-page summary by the defendant of the expert's
9 testimony, which I would be happy to hand up. But it is our
10 contention this is not sufficient under the rule. It doesn't
11 state the documents that were examined, it doesn't state the
12 methods that were used, it doesn't state what was the baseline
13 exemplar that was used. It essentially says -- Actually it says
14 very little. It doesn't give us any idea of the methods that
15 were used or anything by which we can measure whether this
16 testimony would even be admissible under federal law. So we
17 respectfully thank him for this, but we respectfully request the
18 actual written report of the handwriting expert or something that
19 complies with the expert witness rules.

20 THE COURT: All right. It seems to me you are saying
21 two things, counsel. First, you are challenging the sufficiency
22 of the report itself, would be one issue. And, secondly, you are
23 in effect making a Daubert challenge as to the method, because
24 you can't say what the methods are. And that would be a second
25 issue.

1 Might I suggest, adding to your homework for the evening or
2 the next day or so, if you would like to put in a formal
3 objection, I will hear Mr. Poff in response to it, and then rule
4 on that since we are going to be friends here for at least a
5 little bit of time.

6 Mr. Poff, I will tell you, the point made by the government
7 is well taken, in that it is a fairly clear standard as to what
8 you've got to do. Since I haven't seen it, I don't know if you
9 have done it or not. But they are going to help you by telling
10 you what they think you didn't do. You can either stand pat on
11 your end or you can do something to augment it. The risk to
12 standing pat is the court may prohibit the witness from
13 testifying.

14 You might want to talk to Mr. Ratner about these two issues.
15 The second of them, the Daubert challenge, is something that
16 comes up not infrequently, and are the subject of a fair amount
17 of fairly precise case law.

18 Counsel, anything else?

19 MS. VOGEL: No, your Honor. Thank you.

20 THE COURT: Mr. Poff, anything from you today?

21 THE DEFENDANT: Nothing, your Honor. Thank you.

22 THE COURT: We will see you at 9:00 tomorrow morning.
23 Thank you, counsel.

24 (Adjourned for the day)

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CERTIFICATE

I, Barry L. Fanning, Official Court Reporter, do hereby
certify that the foregoing transcript is true and correct.

S/Barry L. Fanning

Barry L. Fanning